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Senate Hearings

Before the Committee on Appropriations

Commerce, Justice, Science, and Related Agencies Appropriations

Fiscal Year 2015

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H.R. 4660/S. 2437

DEPARTMENT OF COMMERCE
DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
NONDEPARTMENTAL WITNESSES

Commerce, Justice, Science, and Related Agencies Appropriations, 2015 (H.R. 4660/S. 2437)

**COMMERCE, JUSTICE, SCIENCE, AND RELATED
AGENCIES APPROPRIATIONS FOR FISCAL YEAR
2015**

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

ON

H.R. 4660/S. 2437

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF COM-
MERCE AND JUSTICE, AND SCIENCE, AND RELATED AGENCIES FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2015, AND FOR OTHER
PURPOSES

**Department of Commerce
Department of Justice
Federal Bureau of Investigation
National Aeronautics and Space Administration
Nondepartmental Witnesses**

Printed for the use of the Committee on Appropriations



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**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2015**

THURSDAY, MARCH 27, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:02 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairwoman) presiding.

Present: Senators Mikulski, Shelby, Murkowski, Kirk, and Boozman.

FEDERAL BUREAU OF INVESTIGATION

STATEMENT OF HON. JAMES B. COMEY, JR., DIRECTOR

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning, everybody. The Subcommittee on Commerce, Justice, Science will come to order. This is our first hearing on the fiscal year 2015 budget. We are starting with the esteemed and much valued Federal Bureau of Investigation. We will have a two-part hearing. This will be an open session, with all Senators free to participate and ask their questions. When this concludes, we will adjourn for a classified hearing on the Bureau's needs, particularly in the global war against terrorism and cyber security and some of those that are more sensitive in terms of the need for global protection and global cooperation.

We want to welcome Director Comey here for his very important appearance and we look forward to hearing his testimony in terms of the needs of the FBI. Last year we concluded I think with a vote on January 20 in which we were able to pass an omnibus bill for fiscal year 2014. Thanks to the work, bipartisan and bicameral, Senator Murray and Congressman Ryan were able to give us a budget and a top line cancelling the sequester, which had a draconian impact on both the function of core agencies like the FBI and on the morale.

We look forward this year to moving ahead in an expeditious way to move this so that we could avoid that kind of crisis in budgeting that has been characteristic of the Congress for more now than 5 years.

To get our work done, we will again listen to Director Comey on budget and priorities. It is his first time as the Director, but not

our first meeting. We appreciate his competence, his candor and his long history of service.

In welcoming you, Mr. Director, we want to thank the entire FBI for the way that they protect America. Whether it is fighting crime in organized crime, whether it's dealing with terrorists or predators, the FBI is on the job 24-7, 365 days a year, and we want them to know that they're appreciated, and we would like to show our appreciation to make sure they have the right resources and the right tools so that they can do the job that they were signed up to do. We believe that they are the unsung heroes.

This hearing will focus on the FBI's vital work. As chair, I've reviewed the FBI's budget, which comes in at \$8.4 billion. In fiscal year 2014 we had an increase of \$762 million above the sequester request. So it was \$762 million, and it sounds like it was a big bump-up, but it was a bump-up to keep us running in place.

I'd like you to describe then about your need to retain talent, to recruit talent, and to train and educate the legendary training that goes on at Quantico. I understand that the 2015 request would keep the FBI moving while making sure our taxpayer dollars are spent wisely.

Now, we know that the sequester caused the FBI to cancel training, to ration gas to 200 miles a week. We valued a much-read and circulated document called "Voices From the Field." This is where we heard from the FBI agents themselves. Not only did they fear furlough for their families, but they feared the impact on the mission. Then we heard they didn't have gas for their cars. What kind of—we can't do this. So we're going to make sure we're looking to you and listening to you to do this, so we'll be looking at the 21st century threats.

We know that one of the major 21st century threats is in cyber space, whether it's the hackers, the cyber spies, or the cyber terrorists. We want to be clear in this hearing that cyber security is not the cyber surveillance that is the subject of much discussion at many levels in this Government and in others. We know that cyber security means protecting us from criminals out to steal credit card information, personal identities, companies' trade secrets, and even worse, whether it's to bring down the grid or bring down our financial services.

We know the FBI's in the front line in this area, and that the request is \$392 million for the Next Generation Cyber Initiative, \$9 million less than 2014. So we want to know, what is it you want to do, either at this hearing or the classified one, and is this the resources to do it?

One of the hallmarks of the FBI has really been working with local law enforcement. The joint task forces that have emerged receive kudos from around the Nation. Certainly in my own Baltimore metropolitan area, in the Washington metropolitan area, law enforcement speaks with such enthusiasm and such energy when they talk about these joint task forces, and that they can rely on the FBI, but keep law enforcement. We don't have a national police force in this country, but we have an American joint task force.

So we want to know how in your budget, what this means to State and local. We've been concerned that these two face significant cuts.

Finally, I'd like to mention the fact that you need a new headquarters. We know that the Hoover Building is dated and to the point of even being dysfunctional, that you're in 20 leased spaces. You know that two alpha delegations, Maryland and Virginia, are duking it out. We'll go through the competitive process, but my criteria, wearing my national hat, is that you need full consolidation. You don't need a micro-consolidation, because we want it to meet its functionality and security requirements for the next 50 years.

So we look forward to listening to you and listening to the needs of really what is it to make sure how we have a robustly funded FBI, a 21st century FBI, for 21st century threats.

I now turn to my vice chairman, who's been such an advocate in this area and has some key facilities in Alabama, Senator Shelby.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you.

Mr. Director, I want to welcome you to the committee. This is your first appearance before the subcommittee as FBI Director. I hope you will be coming to see us often.

We had a good working relationship with your predecessor, Director Mueller, and we look forward to a similar relationship with you and the Bureau. The mission of the FBI is broad and multifaceted. Its responsibilities include, among other things, investigating terrorist attacks and cyber threats, targeting health care fraud, leading the Federal Government's efforts to analyze improvised explosive devices, routing out gang activity. The list goes on and on. You have a broad mandate.

This broad mission requires the FBI to maintain focus on traditional criminal activities, while adapting to the new threats of this country. Terrorists and criminals are agile and sophisticated. The same is required of the Bureau. To remain effective, the Bureau must have the ability, I believe, to refocus and retool to address emerging threats. Without a plan to address such threats or a process for regularly reevaluating priorities, the FBI will find itself playing catch-up with the criminal elements it seeks to eliminate.

The Bureau's 2015 budget, which is the subject of today's hearing, outlines the FBI's strategic priorities. According to the documents provided, these priorities have not substantially been redefined since 2011. This is particularly troubling given the growing cyber threat that the chairwoman mentioned that our Nation is facing.

Recognizing the dynamic world in which we live and the tough fiscal climate that we face here, I want to be sure that the budget priorities of the Bureau truly reflect the threats that are facing this country. The ultimate goal of any prioritization effort should be an FBI that is efficient, effective, and, more importantly, nimble for the foreseeable future.

I'm committed to working with you and the chair to ensure that we're targeting limited resources in a manner that safeguards taxpayer dollars while preserving public safety.

Once again, we appreciate you taking this job as the head of the Bureau and we look forward to working with you.

Thank you, Madam Chair.

Senator MIKULSKI. I want to acknowledge that Senator Kirk is here. Senator, could you hold your statement until the Director finishes and we turn to questions, or do you need to leave?

Senator KIRK. I will hold my statement.

Senator MIKULSKI. Thank you very much.
Director Comey.

SUMMARY STATEMENT OF HON. JAMES B. COMEY, JR.

Mr. COMEY. Madam Chairwoman, Senator Shelby, Senator Kirk, members of the subcommittee: it's an honor to be here representing the great people of the FBI. This is my first appearance in what is a 10-year term that I'm very, very excited about because of those people. I have spent my first 6 months traveling around trying to meet my troops, and what I discovered is that the magic of the FBI is its talent. We don't have a lot of stuff; we have remarkable people.

What I found when I first took this job was that they were people who were very stressed by the impact that sequester was having on them, which Senator Mikulski, you mentioned. Everywhere around the country I heard from my folks about the difficulties they were encountering with vacancies, limitations on gas, the abolition of training, and Quantico being a ghost town.

Thanks to this committee and other members of the Senate and the House, that changed in late January when the budget was passed. I'm now in a position where I'm restarting Quantico. I'm also looking to hire a thousand people to start to fill the almost 2,500 vacancies that we have—hundreds of special agents and intelligence analysts, to restock that magic of the FBI that is our talent.

So, thank you so much for that on behalf of the men and women of the FBI. And we need those people because, as Senator Shelby said, the plate of threats that we face is remarkable.

I'll start with our top priority, Counterterrorism. The threat that I've encountered returning to Government after 8 years away is one that remains incredibly serious, but has changed. It has metastasized in ways that are striking. The primary tumor along the border of Afghanistan and Pakistan was dramatically reduced by the fight of our men and women in uniform and our Intelligence Community. But at the same time, that threat has metastasized into the lightly governed or ungoverned spaces in the world, especially in North Africa, around the Gulf, and around the Mediterranean. And also here at home with the growth of the people we call homegrown violent extremists. I don't like to call them "lone wolves" because that sounds dignified in a way that they don't deserve—folks who are able to access Al-Qaeda's hateful propaganda on the Internet and convince themselves, even without being directed, that they need to engage in some sort of jihad here at home and kill innocent Americans. So that metastasizing threat poses an enormous challenge to everybody in the Intelligence Community, but especially to the great people of the FBI.

Counterintelligence remains a top priority of the Bureau because nation-states around the world still want to steal our secrets and they are finding new and sophisticated ways to do this, especially

through cyber. So we remain on guard 24-7, as the chairwoman said, to protect that which is most important to our Nation.

Cyber, as the chair said, touches everything I do. The reason is fairly easy to understand: we as Americans, as a Nation and as a people, have connected our entire lives to the Internet. It's where our children play, it's where our money is, it's where our health care is, it's where our infrastructure is, our secrets. So it's where those who would do us harm come at us—for our children, for our money, for our private information, for our Nation's secrets, and for our vital infrastructure. It touches everything the FBI is responsible for, so we are doing everything in our power to make sure we are deployed, equipped, and trained to address that threat.

And of course, we're responsible for a host of criminal challenges, from public corruption to civil rights to white-collar crime, gangs, human trafficking, and protecting our children. And we're doing that in 56 field offices all around this country and in offices all around the world every day.

As, Madam Chairwoman, you said, we also have a responsibility to use the taxpayers' money to train and to assist State and local law enforcement. We have world-class facilities and world-class technical capabilities and we work hard to make them available to our brothers and sisters in law enforcement.

The last thing I'll say is my travels have convinced me that the FBI is international in ways that would have been difficult to see just 10 years ago. Nearly everything we do that matters has an international dimension to it. So I am extremely proud of our legal attaches deployed around the world, who build relationships and do service for not just the FBI, but all the American people.

PREPARED STATEMENT

So we're doing a lot of things and we do it through the people. As I said, the magic is the talent. I thank you so much for supporting those folks and for giving me the resources to make sure we have enough of those great folks.

My hope for 2015 is to be able to sustain the progress we have made since late January, restock the talent of the FBI, and march out to meet those many challenges. I look forward to working with you on that.

Thank you so much.

[The statement follows:]

PREPARED STATEMENT OF HON. JAMES B. COMEY, JR.

Good morning Chairwoman Mikulski, Vice Chairman Shelby, and members of the subcommittee. I look forward to discussing the FBI's fiscal year 2015 budget request, as well as FBI programs and priorities for the coming year. On behalf of the men and women of the FBI, let me begin by thanking you for your ongoing support of the Bureau.

Thanks to the support of this subcommittee, we now have a budget in place that that allows us to do more operationally, to hire and train new agents and intelligence analysts, and to backfill vacant positions in our field offices. We pledge to be the best possible stewards of the budget you have provided for us and to use it to maximum effect to carry out our mission.

Today's FBI is a threat-focused, intelligence-driven organization. Each employee of the FBI understands that to mitigate the key threats facing our Nation, we must constantly strive to be more efficient and more effective.

Just as our adversaries continue to evolve, so, too, must the FBI. We live in a time of acute and persistent terrorist and criminal threats to our national security,

our economy, and our communities. These diverse threats facing our Nation and our neighborhoods underscore the complexity and breadth of the FBI's mission.

We remain focused on defending the United States against terrorism, foreign intelligence, and cyber threats; upholding and enforcing the criminal laws of the United States; protecting civil rights and civil liberties; and providing leadership and criminal justice services to Federal, State, municipal, and international agencies and partners. Our continued ability to carry out this demanding mission reflects the support and oversight provided by this committee.

The FBI's fiscal year 2015 budget request totals \$8.3 billion in direct budget authority, including 34,970 permanent positions (13,050 Special Agents, 3,048 Intelligence Analysts, and 18,872 professional staff). This request includes two program enhancements: 14 positions and \$3.2 million for Mutual Legal Assistance Treaty reform, and \$15 million for operations and maintenance for the Terrorist Explosive Device Analytical Center (TEDAC) facility in Huntsville, Alabama.

Let me summarize the FBI efforts that this funding supports.

NATIONAL SECURITY

The FBI is the lead domestic intelligence and law enforcement agency in the United States. Our complementary intelligence and law enforcement capabilities make up the key components of the Bureau's national security mission. They also illustrate the unique authorities and mission we have in the U.S. Intelligence Community. We collect intelligence to understand and identify the threats to the Nation. And when the time comes for action to prevent an attack, we disrupt threats using our law enforcement powers through our Joint Terrorism Task Forces (JTTFs).

Much of the FBI's success can be credited to the longstanding relationships we enjoy with our intelligence, law enforcement, public, and private sector partners. With thousands of private and public business alliances and more than 4,100 JTTF members, including more than 1,500 interagency personnel from more than 600 Federal, State, territorial, and tribal partner agencies, the FBI's partnerships are essential to achieving our mission and ensuring a coordinated approach toward national security threats.

Counterterrorism

As the lead agency responsible for countering terrorist threats to the United States and its interests overseas, the FBI integrates intelligence and operations to detect and disrupt terrorists and their organizations.

Counterterrorism remains our top priority. The Boston Marathon bombings in April 2013 remind us that the terrorist threat against the United States remains persistent. The threat from homegrown violent extremists is of particular concern. These individuals present unique challenges because they do not share a typical profile; their experiences and motives are often distinct and personal. They are also increasingly savvy and willing to act alone, which makes them more difficult to identify and to stop.

In the past 2 years, homegrown extremists have attempted to detonate improvised explosive devices or bombs at such high profile targets as the Federal Reserve Bank in New York, commercial establishments in downtown Chicago, the Pentagon, and the U.S. Capitol. Fortunately, these attempts and many others were thwarted. Yet the threat from such individuals remains.

The foreign terrorist threat is similarly complex and ever changing. Overseas, we are seeing more groups and individuals engaged in terrorism, a wider array of terrorist targets, greater cooperation among terrorist groups, and continued evolution and adaptation in tactics and communication.

Al-Qa'ida and its affiliates, especially al-Qa'ida in the Arabian Peninsula (AQAP), continue to represent a top terrorist threat to the Nation. These groups have attempted several attacks on the United States, including the failed Christmas Day airline bombing in 2009, and the attempted bombing of U.S.-bound cargo planes in October 2010.

To better address this evolving threat, the FBI has established the Countering Violent Extremism (CVE) Office. This office leverages FBI resources and works with Federal counterparts to empower our local partners to prevent violent extremists and their supporters from inspiring, radicalizing, financing, or recruiting individuals or groups in the United States to commit acts of violence. The CVE Office facilitates an understanding of the catalysts to violent extremism, as well as its behavioral components and radicalization factors, and identifies possible inhibitors to these phenomena. The FBI is leading efforts to conduct outreach and raise community awareness, while upholding civil rights and civil liberties.

Counterintelligence

We still confront traditional espionage—spies posing as diplomats or ordinary citizens. But espionage also has evolved. Spies today are often students, researchers, or businesspeople operating front companies. And they seek not only state secrets, but trade secrets, research and development, intellectual property, and insider information from the Federal Government, U.S. corporations, and American universities. Foreign intelligence services continue to grow more creative and more sophisticated in their methods to steal innovative technology, critical research and development data, and intellectual property, which erodes America's leading edge in business and poses a significant threat to national security.

We remain focused on the growing scope of the insider threat—that is, when trusted employees and contractors use their legitimate access to information to steal secrets for the benefit of another company or country. This threat has been exacerbated in recent years as businesses have become more global and increasingly exposed to foreign intelligence organizations.

To combat this threat, the FBI's Counterintelligence Division educates academic and business partners about how to protect themselves against economic espionage. We also work with the defense industry, academic institutions, and the general public to address the increased targeting of unclassified trade secrets across all American industries and sectors.

Together with our intelligence and law enforcement partners, we must continue to protect our trade secrets and our state secrets, and prevent the loss of sensitive American technology.

Weapons of Mass Destruction

As weapons of mass destruction (WMD) threats continue to evolve, the FBI uses its statutory authorities to lead all investigations concerning violations of WMD-related statutes, preparation, assessment, and responses to WMD threats and incidents within the United States. The FBI provides timely and relevant intelligence analyses of current and emerging WMD threats to inform decision makers, support investigations, and formulate effective countermeasures and tripwires to prevent attacks.

To ensure an effective national approach to preventing and responding to WMD threats, the FBI created the Weapons of Mass Destruction Directorate integrating the necessary counterterrorism, intelligence, counterintelligence, and scientific and technological components into one organizational structure. Using this integrated approach, the Directorate leads WMD policy development, planning, and response to ensure its efforts result in a comprehensive response capability that fuses investigative and technical information with intelligence to effectively resolve WMD threats.

To enable the prevention or disruption of WMD threats or attacks, FBI headquarters personnel, 56 field WMD coordinators, and two WMD assistant legal attachés oversee implementation of national and international initiatives and countermeasures. The FBI conducts outreach and liaison efforts with critical infrastructure partners, the private sector, academia, industry, and the scientific community to implement tripwires that prevent any actor—terrorist, criminal, insider threat, or lone offender—from successfully acquiring chemical, biological, radiological, or nuclear material or dissemination equipment. Through these efforts, the WMD Directorate supports the broader work of the U.S. Government as a leading partner and active contributor to policy decisions.

The Counterproliferation Center (CPC) combines the operational activities of the Counterintelligence Division, the subject matter expertise of the Weapons of Mass Destruction Directorate (WMDD), and the analytical capabilities of both components to identify and disrupt proliferation activities. Since its inception in July 2011, the CPC has overseen the arrest of approximately 65 individuals, including several considered by the U.S. Intelligence Community to be major proliferators. Along with these arrests, the CPC has increased its operational tempo to collect valuable intelligence on proliferation networks.

Intelligence

The FBI's efforts to advance its intelligence capabilities have focused on streamlining and optimizing the organization's intelligence components while simultaneously positioning the Bureau to carry out its responsibilities as the lead domestic intelligence agency.

One way the FBI is enhancing our partnerships and our ability to address threats is through the Domestic Director of National Intelligence (DNI) Representative Program. Through this program, FBI senior-level field executives in 12 geographic locations are serving as DNI representatives throughout the United States. The Domes-

tic DNI Representatives are working with Intelligence Community partners within their regions to understand the threat picture and develop a more coordinated and integrated Intelligence Community enterprise. A more unified and effective Intelligence Community will enhance the Nation's ability to share information with our law enforcement and private sector partners, and will prevent and minimize threats to our national security.

In addition, we expanded the fusion cell model, which further integrates our intelligence and operational elements through teams of analysts embedded with agents in the operational divisions. These fusion cells examine the national and international picture and provide intelligence on current and emerging threats across programs, making connections that are not always visible at the field level. Providing standard criteria, these cells inform the Threat Review and Prioritization (TRP) process and develop National Threat Priorities for the field. The fusion cells assess the FBI's ability to collect intelligence to identify gaps, inform operational strategies, and mitigate threats to drive FBI operations. As a result, the fusion cells and TRP provide the field with clear guidance and a consistent process to identify priority threats, while ensuring FBI Headquarters has an effective way to manage and evaluate the most significant threats facing the country.

This strategic, national-level perspective ensures the FBI is developing a complete picture of the threat environment and directing our resources at priority targets to stay ahead of our adversaries. This integration provides a cross-programmatic view of current threats and enables a nimble approach to identifying and addressing emerging threats.

Cyber

We face cyber threats from state-sponsored hackers, hackers for hire, organized cyber syndicates, and terrorists. They seek our state secrets, our trade secrets, our technology, and our ideas—things of incredible value to all of us. They may seek to strike our critical infrastructure and our economy. The threat is so dire that cyber security has topped the Director of National Intelligence list of global threats for the second consecutive year.

Given the scope of the cyber threat, agencies across the Federal Government are making cyber security a top priority. Within the FBI, we are targeting high-level intrusions—the biggest and most dangerous botnets, state-sponsored hackers, and global cyber syndicates. We want to predict and prevent attacks, rather than reacting after the fact.

FBI agents, analysts, and computer scientists are using technical capabilities and traditional investigative techniques—such as sources and wires, surveillance, and forensics—to fight cyber crime. We are working side-by-side with our Federal, State, and local partners on Cyber Task Forces in each of our 56 field offices and through the National Cyber Investigative Joint Task Force (NCIJTF). Through our 24-hour cyber command center, CyWatch, we combine the resources of the FBI and NCIJTF, allowing us to provide connectivity to Federal cyber centers, government agencies, FBI field offices and legal attachés, and the private sector in the event of a cyber intrusion.

We also work with the private sector through partnerships such as the Domestic Security Alliance Council, InfraGard, and the National Cyber Forensics and Training Alliance. And we are training our State and local counterparts to triage local cyber matters, so that we can focus on national security issues.

Our legal attaché offices overseas work to coordinate cyber investigations and address jurisdictional hurdles and differences in the law from country to country. We are supporting partners at Interpol and The Hague as they work to establish international cyber crime centers. We continue to assess other locations to ensure that our cyber personnel are in the most appropriate locations across the globe.

We know that to be successful in the fight against cyber crime, we must continue to recruit, develop, and retain a highly skilled workforce. To that end, we have developed a number of creative staffing programs and collaborative private industry partnerships to ensure that over the long term we remain focused on our most vital resource—our people.

CRIMINAL

We face many criminal threats, from complex white-collar fraud in the financial, healthcare, and housing sectors to transnational and regional organized criminal enterprises to violent crime and public corruption. Criminal organizations—domestic and international—and individual criminal activity represent a significant threat to our security and safety in communities across the Nation.

Public Corruption

Public corruption is the FBI's top criminal priority. The threat—which involves the corruption of local, State, and federally elected, appointed, or contracted officials—strikes at the heart of government, eroding public confidence and undermining the strength of our democracy. It impacts how well U.S. borders are secured and neighborhoods are protected, how verdicts are handed down in court, and how well public infrastructure such as schools and roads are built. The FBI is uniquely situated to address this threat, with our ability to conduct undercover operations, perform electronic surveillance, and run complex cases. However, partnerships are critical and we work closely with Federal, State and local authorities in pursuing these cases. One key focus is border corruption. The Federal Government protects 7,000 miles of U.S. land border and 95,000 miles of shoreline. Every day, more than a million visitors enter the country through one of 327 official ports of entry along the Mexican and Canadian borders, as well as through seaports and international airports. Any corruption at the border enables a wide range of illegal activities, potentially placing the entire Nation at risk by letting drugs, guns, money, and weapons of mass destruction slip into the country, along with criminals, terrorists, and spies. Another focus concerns election crime. Although individual States have primary responsibility for conducting fair and impartial elections, the FBI becomes involved when paramount Federal interests are affected or electoral abuse occurs.

Financial Crimes

We have witnessed an increase in financial fraud in recent years, including mortgage fraud, healthcare fraud, and securities fraud.

The FBI and its partners continue to pinpoint the most egregious offenders of mortgage fraud. With the economy and housing market still recovering in many areas, we have seen an increase in schemes aimed both at distressed homeowners and at lenders. Our agents and analysts are using intelligence, surveillance, computer analysis, and undercover operations to identify emerging trends and to find the key players behind large-scale mortgage fraud. We also work closely with the Department of Housing and Urban Development, Postal Inspectors, the IRS, the FDIC, and the Secret Service, as well as with State and local law enforcement offices.

Healthcare spending currently makes up about 18 percent of our Nation's total economy. These large sums present an attractive target for criminals—so much so that we lose tens of billions of dollars each year to healthcare fraud. Healthcare fraud is not a victimless crime. Every person who pays for healthcare benefits, every business that pays higher insurance costs to cover their employees, every taxpayer who funds Medicare, is a victim. Schemes can cause actual patient harm, including subjecting patients to unnecessary treatment, providing sub-standard services and supplies, and by passing potentially life-threatening diseases due to the lack of proper precautions. As healthcare spending continues to rise, the FBI will use every tool we have to ensure our healthcare dollars are used to care for the sick—not to line the pockets of criminals.

Our investigations of corporate and securities fraud have also increased substantially in recent years. As financial crimes become more sophisticated, so must the FBI. The FBI continues to use techniques such as undercover operations and Title III intercepts to address these criminal threats. These techniques are widely known for their successful use against organized crime, and they remain a vital tool to gain concrete evidence against individuals conducting crimes of this nature on a national level.

Finally, the FBI recognizes the need for increased cooperation with our regulatory counterparts. Currently, we have embedded agents and analysts at the Securities and Exchange Commission and the Commodity Futures Trading Commission, which allows the FBI to work hand-in-hand with U.S. regulators to mitigate the corporate and securities fraud threat. Furthermore, these relationships enable the FBI to identify fraud trends more quickly, and to work with our operational and intelligence counterparts in the field to begin criminal investigations when deemed appropriate.

Gangs/Violent Crime

Violent crimes and gang activities exact a high toll on individuals and communities. Today's gangs are sophisticated and well organized; many use violence to control neighborhoods and boost their illegal money-making activities, which include robbery, drug and gun trafficking, fraud, extortion, and prostitution rings. Gangs do not limit their illegal activities to single jurisdictions or communities. The FBI is able to work across such lines, which is vital to the fight against violent crime in big cities and small towns across the Nation. Every day, FBI Special Agents work

in partnership with State and local officers and deputies on joint task forces and individual investigations.

FBI joint task forces—Violent Crime Safe Streets, Violent Gang Safe Streets, and Safe Trails Task Forces—focus on identifying and targeting major groups operating as criminal enterprises. Much of the Bureau’s criminal intelligence is derived from our State, local, and tribal law enforcement partners, who know their communities inside and out. Joint task forces benefit from FBI surveillance assets and our sources track these gangs to identify emerging trends. Through these multi-subject and multi-jurisdictional investigations, the FBI concentrates its efforts on high-level groups engaged in patterns of racketeering. This investigative model enables us to target senior gang leadership and to develop enterprise-based prosecutions.

Transnational Organized Crime

More than a decade ago, the image of organized crime was of hierarchical organizations, or families, that exerted influence over criminal activities in neighborhoods, cities, or States. But organized crime has changed dramatically. Today, international criminal enterprises run multi-national, multi-billion-dollar schemes from start to finish. These criminal enterprises are flat, fluid networks with global reach. While still engaged in many of the “traditional” organized crime activities of loan-sharking, extortion, and murder, new criminal enterprises are targeting stock market fraud and manipulation, cyber-facilitated bank fraud and embezzlement, identify theft, trafficking of women and children, and other illegal activities. Preventing and combating transnational organized crime demands a concentrated effort by the FBI and Federal, State, local, and international partners. The Bureau continues to share intelligence about criminal groups with our partners, and to combine resources and expertise to gain a full understanding of each group.

Crimes Against Children

The FBI remains vigilant in its efforts to eradicate predators from our communities and to keep our children safe. Ready response teams are stationed across the country to quickly respond to abductions. Investigators bring to this issue the full array of forensic tools such as DNA, trace evidence, impression evidence, and digital forensics. Through improved communications, law enforcement also has the ability to quickly share information with partners throughout the world, and our outreach programs play an integral role in prevention.

The FBI also has several programs in place to educate both parents and children about the dangers posed by predators and to recover missing and endangered children should they be taken. Through our Child Abduction Rapid Deployment teams, Innocence Lost National Initiative, Innocent Images National Initiative, Office of Victim Assistance, and numerous community outreach programs, the FBI and its partners are working to keep our children safe from harm.

The FBI established the Child Sex Tourism Initiative to employ proactive strategies to identify U.S. citizens who travel overseas to engage in illicit sexual conduct with children. These strategies also include a multi-disciplinary approach through partnerships with foreign law enforcement and non-governmental organizations to provide child victims with available support services. Similarly, the FBI’s Innocence Lost National Initiative serves as the model for the partnership between Federal, State and local law enforcement in addressing child prostitution. Since its inception, more than 3,100 children have been located and recovered. The investigations and subsequent 1,450 convictions have resulted in lengthy sentences, including twelve life terms.

Indian Country

The FBI continues to maintain primary Federal law enforcement authority to investigate felony crimes on more than 200 Indian reservations nationwide. More than 100 Special Agents from 20 different field offices investigate these cases. In addition, the FBI has 14 Safe Trails Task Forces that investigate violent crime, drug offenses, and gangs in Indian Country and we continue to address the emerging threat from fraud and other white-collar crimes committed against tribal gaming facilities.

Sexual assault and child sexual assault are two of the FBI’s investigative priorities in Indian Country. Statistics indicate that American Indians and Alaska Natives suffer violent crime at greater rates than other Americans. Approximately 75 percent of all FBI Indian Country investigations concern homicide, crimes against children, or felony assaults.

The FBI continues to work with tribes through the Tribal Law and Order Act of 2010 to help tribal governments better address the unique public safety challenges and disproportionately high rates of violence and victimization in many tribal communities. The act encourages the hiring of additional law enforcement officers for

Native American lands, enhances tribal authority to prosecute and punish criminals, and provides the Bureau of Indian Affairs and tribal police officers with greater access to law enforcement databases.

SCIENCE & TECHNOLOGY

Laboratory Services

The FBI Laboratory (“the Lab”) is one of the largest and most comprehensive forensic laboratories in the world. Operating out of a state-of-the-art facility in Quantico, Virginia, laboratory personnel travel the world on assignment, using science and technology to protect the Nation and support law enforcement, intelligence, military, and forensic science partners. The Lab’s many services include providing expert testimony, mapping crime scenes and conducting forensic exams of physical and hazardous evidence. Lab personnel possess expertise in many areas of forensics supporting law enforcement and intelligence purposes, including explosives, trace evidence, documents, chemistry, cryptography, DNA, facial reconstruction, fingerprints, firearms, and WMD.

One example of the Lab’s key services and programs is the Combined DNA Index System (CODIS), which blends forensic science and computer technology into a highly effective tool for linking crimes. It enables Federal, State, and local forensic labs to exchange and compare DNA profiles electronically, thereby connecting violent crimes and known offenders. Using the National DNA Index System of CODIS, the National Missing Persons DNA Database helps identify missing and unidentified individuals.

TEDAC is another example. TEDAC was formally established in 2004 to serve as the single interagency organization to receive, fully analyze, and exploit all priority terrorist Improvised Explosive Devices (IEDs). TEDAC coordinates the efforts of the entire government, including law enforcement, intelligence, and military entities, to gather and share intelligence about IEDs. These efforts help disarm and disrupt IEDs, link them to their makers, and prevent future attacks. Although originally focused on devices from Iraq and Afghanistan, TEDAC now receives and analyzes devices from all over the world.

Additionally, FBI Evidence Response Teams (ERTs) are active in all 56 field offices and include more than 1,200 members. The FBI supports and enables evidence collection capabilities of field ERTs and law enforcement partners by providing forensic training, resources, and expertise. The FBI also has forward-deployed evidence response capabilities to respond to terrorist attacks and criminal incidents involving hazardous materials (chemical, biological, nuclear, and radiological) in concert with local officials and FBI WMD experts.

Operational Technology

Terrorists and criminals are increasingly adept at exploiting cutting-edge technologies to carry out or to mask their crimes. To counter current and emerging threats, the FBI actively deploys a wide range of technology-based tools, capabilities, and training that enable and enhance intelligence, national security, and law enforcement operations. In addition to developing state-of-the-art tools and techniques, the FBI also focuses on recruiting and hiring individuals who possess specialized skills and experience. These dedicated employees serve as technically trained agents, engineers, computer scientists, digital forensic examiners, electronics technicians, and other specialists. Collectively, these specialists enable lawful electronic surveillance, provide secure communications, decipher encrypted messages, reverse engineer malware, forensically examine digital evidence such as images and audio recordings, and much more.

By way of example, the National Domestic Communications Assistance Center (NDCAC) is designed to leverage and share the law enforcement community’s collective technical knowledge, solutions, and resources to address the challenges posed by advancing communications services and technologies. The NDCAC also works on behalf of Federal, State, local, and tribal law enforcement agencies to strengthen law enforcement’s relationships with the communications industry.

The FBI has also established 16 Regional Computer Forensic Laboratories (RCFLs) across the Nation. RCFLs serve as one-stop, full-service forensics laboratories and training centers. All RCFL personnel in each of the 16 facilities across the country must earn FBI certification as digital forensics examiners and follow standardized evidence handling and operating procedures. RCFLs are staffed by Federal, State, and local law enforcement personnel who examine digital evidence in support of all types of investigations—cases involving everything from child pornography and terrorism to violent crime and economic espionage.

Criminal Justice Information Services

The FBI Criminal Justice Information Services (CJIS) Division, located in Clarksburg, West Virginia, provides Federal, State, and local enforcement and other authorized users with timely access to criminal justice information through a number of programs, including the National Crime Information Center, the Uniform Crime Reporting program, and the National Instant Criminal Background Checks System.

In addition, CJIS manages the Integrated Automated Fingerprint Identification System (IAFIS), which provides timely and accurate identification services by identifying individuals through name, date-of-birth, fingerprint image comparisons, or other descriptors, and provides criminal history records on individuals for law enforcement and civil purposes. IAFIS is designed to process criminal fingerprint submissions in 2 hours or less and civil submissions in 24 hours or less. In fiscal year 2013, approximately 62.7 million fingerprint background checks were processed. The Next Generation Identification program advances the FBI's biometric identification and investigation services, providing new biometric functionality such as facial recognition, improved latent searches, and immediate responses related to the Repository for Individuals of Special Concern, a fingerprint index of wanted persons, sexual offender registry subjects, known or appropriately suspected terrorists, and other persons of special interest.

CJIS also manages the Law Enforcement National Data Exchange (N-DEx), a criminal justice information sharing network that allows law enforcement agencies to share law enforcement records from more than 4,500 agencies with nearly 140,000 criminal justice users. The N-DEx network contains more than 225 million searchable records (incident reports, arrest reports, booking data, etc.). It is projected that by the end of fiscal year 2014, N-DEx information sharing will be available to law enforcement agencies representing almost 60 percent of the U.S. population.

CRITICAL INCIDENT RESPONSE GROUP

The Critical Incident Response Group (CIRG) is a "one stop shop" for responding rapidly to crisis situations worldwide. Its professionals are on call around the clock, ready to support FBI operations and Federal, State, local, and international law enforcement partners in managing critical incidents and major investigations.

The National Center for the Analysis of Violent Crime (NCAVC) provides operational support to FBI agents and law enforcement personnel on complex and time-sensitive cases.

The Behavioral Threat Assessment Center (BTAC) assesses the potential threat of violence posed by persons of concern and as reflected in threatening communications. Issues traditionally addressed by the BTAC include school and workplace attacks, threats against Members of Congress and public figures, and threatening communications.

The Violent Criminal Apprehension Program (ViCAP) is the national repository for violent crime cases—specifically those involving homicides, sexual assaults, missing persons, and unidentified human remains—helping to draw links between seemingly unconnected crimes. In 2008, the FBI launched the ViCAP Web National Crime Database, which is available to law enforcement agencies through the secure Law Enforcement Online (LEO) website. Investigators can search ViCAP Web for nationwide cases similar to theirs and communicate with other U.S. law enforcement agencies to coordinate investigations based on these linkages. More than 5,000 Federal, State, and local law enforcement agencies have contributed to the 85,000-case ViCAP national violent crime database.

Active Shooter Training

In the aftermath of the tragedy at Sandy Hook elementary school, the President announced the Now Is the Time initiative focused on protecting children and communities by reducing gun violence. A critical component of this initiative focuses on schools, institutions of higher education, and houses of worship. The FBI was assigned to lead law enforcement training to ensure coordination among agencies. To that end, we have trained more than 9,600 senior State, local, tribal, and campus law enforcement executives at conferences hosted by FBI field offices, and trained more than 6,300 first responders through tabletop exercises designed around facts similar to recent school shootings. To date, the FBI has provided our Advanced Law Enforcement Rapid Response Training course, an active shooter training program, to more than 1,400 officers from 613 agencies.

Tactical Operations & Crisis Response

CIRG has a range of tactical resources and programs that support and provide oversight to the FBI and its partners. For example, each FBI field office has a

SWAT team that is equipped with a wide array of specialized weaponry and is trained to engage in hazardous operations such as barricaded subjects, high-risk arrest/search warrants, patrolling through adverse terrain, and—in some field offices—maritime interdictions. These teams include crisis negotiators who routinely respond to prison sieges, hostage takings, and kidnappings nationwide and provide assistance to State and local police negotiators. CIRG also manages the FBI Hostage Rescue Team—the U.S. Government’s non-military, full-time counterterrorist tactical team—which provides enhanced manpower, training, and resources to confront the most complex threats.

The Hazardous Devices School at Redstone Arsenal in Huntsville, Alabama, is the Nation’s only facility for training and certifying public safety bomb technicians to render safe hazardous devices. Managed by the FBI, the school has trained more than 20,000 State and local first responders since it opened in 1971. A natural extension of this school can be found in the FBI’s own 249 Special Agent bomb technicians, who provide training to local and State bomb squads and serve as the workforce for the FBI’s explosives-related operations worldwide.

VICTIM ASSISTANCE

Through the Office for Victim Assistance (OVA), the FBI ensures that victims of crimes investigated by the FBI are afforded the opportunity to receive the services and notifications required by Federal law and the Attorney General Guidelines on Victim and Witness Assistance. Among its many services, OVA provides on-scene help to crime victims, assesses and triages their needs, and helps victims identify and secure counseling, housing, medical attention, and legal and immigration assistance. When other resources are not available, OVA administers special Victims of Crime Act funds to meet victims’ emergency needs, including reunification travel, crime scene cleanup, replacement clothing, and shipment of victims’ remains.

Special services are provided to child victims. The Child Pornography Victim Assistance Program coordinates support and notification services for child victims of pornography and their guardians. The Forensic Child Interviewing Program ensures that investigative interviews of child victims and witnesses of Federal crimes are tailored to the child’s stage of development and minimize any additional trauma. Additionally, a detailed protocol was recently developed for providing support to families of abducted children and assisting with post-recovery reunification and follow-up services. OVA is partnering with the Criminal Investigative Division’s Violent Crimes Against Children Section and other agencies and organizations to improve the response to and services for minor victims of sex trafficking.

The Terrorism and Special Jurisdiction Program provides emergency assistance to injured victims and families of American victims killed in terrorist attacks and serves as a permanent point of contact for terrorism victims. Victim Assistance Rapid Deployment Teams provide immediate, on-scene assistance to victims of domestic terrorism and mass violence, often at the request of local law enforcement agencies. These highly trained and experienced teams have responded to numerous mass casualty crimes since 2006, most recently to tragedies at Sandy Hook Elementary School, the Washington Navy Yard, and at the Boston Marathon.

INFORMATION TECHNOLOGY

The FBI’s Information and Technology Branch (ITB) provides enterprise-wide IT products and services to more than 36,000 FBI employees, contractors, and task force members, including managing more than 114,000 workstations and 46 mission-critical systems.

The target of the ITB’s current modernization efforts is to create the future FBI Information Environment. Technology provides a distinct advantage, allowing FBI users access to their critical data when, where, and how they need it. The FBI Information Environment will support development of new mission and business functionality within a defined and controlled IT framework. These modernization efforts will move the FBI toward an agile, responsive, and efficient services-based operating model, emphasizing reuse of enterprise services both to increase cost savings and to enhance the reliability of IT infrastructure and applications.

INTERNATIONAL OFFICES

One of the fundamental challenges of the 21st Century is stopping overseas threats from compromising the security of the United States. For this reason, the FBI maintains more than 80 offices overseas that cover more than 200 countries and territories. Though our successes have been many, the increase in crimes with an overseas nexus shows we must do more.

The FBI continues to look for opportunities to open offices worldwide in the Middle East, Africa, Eurasia, the Americas, and Asia to target emerging terrorist, cyber, and criminal threats. Staff have strong cross-programmatic skills and work side-by-side with sister agencies, host governments, and corporate partners to take on threats. By targeting terrorists and criminals on their home turf—before their plots take shape—the FBI can stop those who wish to harm the United States before they have the capability to do so.

TRAINING

In fiscal year 2014, the FBI plans to graduate approximately seven new groups of trainees by the end of the fiscal year—more than 300 Special Agents. We also hope to fill six classes of new intelligence analysts.

The National Academy provides law enforcement executives and investigators from State and local law enforcement agencies worldwide with advanced leadership training. The National Academy has continued to train more executives, adding to its total of more than 47,000 graduates to date.

The FBI provides leadership, intelligence, and law enforcement assistance to its international training partners through a variety of programs designed to establish and strengthen cooperation and liaison between the FBI and its overseas counterparts. Courses offered include organized crime cases, anti-gang strategies, terrorist crime scene investigations, and street survival techniques. The FBI also administers the International Law Enforcement Academy (ILEA) in Budapest, Hungary, and supports other academies in Bangkok, Thailand; Gaborone, Botswana; and San Salvador, El Salvador; as well as the Regional Training Center in Lima, Peru. The curriculums of these academies are based on the FBI National Academy model. To date, more than 11,100 students have received ILEA training.

Other key training programs include Leadership in Counterterrorism, which has trained more than 400 upper-level counterterrorism executives from State or national police agencies and chiefs or deputy chiefs of local agencies to date; the Domestic Security Executive Academy, which has trained more than 340 Federal executives and Fortune 1,000 corporate security executives; the Law Enforcement Executive Development Seminar (LEEDS), a two-week program designed for chief executive officers of the Nation's mid-sized law enforcement agencies; and the National Executive Institute (NEI), a two-week executive training program that provides strategic leadership education and partnership opportunities for executives from the highest levels of the FBI and the largest U.S. and international law enforcement agencies.

LEADERSHIP DEVELOPMENT

We created the Leadership Development Program (LDP) to help prepare FBI employees to lead before taking formal leadership positions, by providing relevant tools, courses, and developmental experiences needed for success. These efforts are fostering a Bureau-wide cultural shift toward promoting long-term individual development to better operate in quickly developing transitions and crises.

Since 2009, LDP has built a variety of integrated programs, including onboarding for both new employees and specific positions such as executives and senior managers, in-depth courses for both current and new supervisors and program managers, and a developmental program to prepare aspiring leaders before they are promoted. LDP's various programs were created by employees, for employees, and are designed to build upon one another over the course of an employee's career. They were originally benchmarked against successful models from our military, law enforcement, and intelligence partners, as well as private companies; as LDP has grown, other government agencies now reach out to benchmark against the FBI.

OFFSETS

The FBI's fiscal year 2015 budget request includes an offset of \$168 million to pay for increases in existing costs, including pay raises, Federal Employees Retirement System contributions, State Department charges, and General Services Administration (GSA) rent, among others. The offset will be achieved through a combination of program efficiencies and administrative savings. In addition, the fiscal year 2015 request includes a \$12 million offset to the Secure Work Environment (SWE) program. In fiscal year 2015, the SWE program will continue to maintain existing facilities while providing an increase in capabilities at high priority locations.

CONCLUSION

Responding to this complex and ever-changing threat environment is not new to the FBI. The resources this subcommittee provides each year are critical for the FBI's ability to address existing and emerging national security and criminal threats.

Chairwoman Mikulski, Vice Chairman Shelby, and members of the subcommittee, I would like to close by thanking you for this opportunity to discuss the FBI's priorities. Chairwoman Mikulski, we are grateful for the leadership that you and this subcommittee have provided to the FBI. We would not be in the position we are today without your support. Your investments in our workforce, our technology, and our infrastructure make a difference every day at FBI offices in the United States and around the world, and we thank you for that support.

I look forward to answering any questions you may have.

Senator MIKULSKI. Well, that was very compelling testimony, Director. I think it was organized in the way our priorities are in terms of our national security threats, our criminal threats, support to our partners, particularly in our country, and those that are around the world.

BUDGET

But the FBI is, in terms of its \$8 billion—and I think it's a bargain for what we get for \$8 billion, when you think of the magnitude, of the number of agents, the analysts, the support staff, 60 places around the world, 56 field offices here.

But your request really goes to people. It's not a big plane, it's not a big aircraft carrier. What we were able to do in fiscal year 2014 on a bipartisan basis I think allowed you to bring in 1,000 new critical positions; is that right?

Mr. COMEY. Yes, which I'm trying to fill by October 1.

Senator MIKULSKI. Now, what in terms of—what is it that we need to help you keep that momentum going? The talent is not a spigot you can turn on. Unlike—and we're not knocking our friends in defense, but you know you can delay the purchase of an aircraft carrier, you can buy one less fighter plane, save a half a billion dollars. But here talent, both the trainers that you need, again at Quantico, and then the ability to recruit—people, they don't want to be in a spigot job; they want to be in a real job, you know, where the spigot's on.

Tell us what we need to do in our line items to really sustain the momentum and provide the adequacy in particularly key areas?

Mr. COMEY. Thank you, Senator Mikulski. As you said, the FBI is people. I have no battleships, no satellites. I have great men and women. What I need is to be able to hire the people that I'm trying to hire by October 1st and then continue to hire, because we're down almost 2,500 positions. So I need to be able to hire the new folks next fiscal year and pay and support those that we bring on this year. So just to continue the progress is what I need.

Senator MIKULSKI. The purpose of this hearing is not fiscal year 2016, but then the biggest threat to your momentum would be not a stringent budget in fiscal year 2016, but a sequester that just goes across the board; is that correct?

Mr. COMEY. Yes, that would be sort of back to the future for us. If that were to happen, we'd again be in the position where we'd be rationing gas and not filling vacancies, and we'd be back to what we experienced the last 2 years.

STATE AND LOCAL LAW ENFORCEMENT

Senator MIKULSKI. Now, let's go to State and local law enforcement in my time. These partnerships are key. We don't have a national police force. America doesn't want it. But we have an FBI that provides national resources and deals with Federal crime.

You, meaning the Federal level, rely on local law enforcement to be eyes, ears, boots on the ground. It's the local police commissioner and the local police officer that often sees something and says something that makes a difference, whether it's fighting crime or dealing with the terrorist threat.

I note a cut in the State and local law enforcement area. What do you anticipate in order, again, to sustain and maintain the relationships and the effort at the local level, like fighting gangs that I know Senator Kirk is so devoted to, a great concern of mine in the Baltimore area, the whole issue of child predators and the trafficking in children. So could you share with us then what you need in that area?

Mr. COMEY. Certainly, Senator. There's nothing we do—not nothing we do at all, but certainly nothing we do that matters, that we don't do in partnership with State and local law enforcement. The days of the lone fed are long gone. We work together to make sure we're gaining maximum leverage from each other, whether that's protecting kids, protecting neighborhoods, or protecting the Nation from terrorists.

A bedrock of our counterterrorism response is our Joint Terrorism Task Forces. We have over 100. They are 50 percent State, local, and other Federal law enforcement agencies. So those partnerships are vital. Part of the glue that holds those partnerships together is our ability to offer training and technical assistance to our brothers and sisters at the State and local level. We had to shut all that down before the budget was passed at the end of January. So now we are again offering that training and assistance, and I'd like to be able to continue that.

Senator MIKULSKI. There are other questions that I have, but I'm going to yield to Senator Shelby.

Senator SHELBY. Thank you, Madam Chair. I'll try to be brief, but I have a number of questions, Madam Chair.

CYBER SECURITY

Director Comey, you've acknowledged the growing cyber security threat that was mentioned by the chair, facing our Nation and the challenges that are inherent in facilitating private industry reporting of attacks. It's been told to us that private industry often believes that their reports fall on deaf ears because they receive no feedback or little feedback or follow-up information about the status of some of the reports. This perception could be a serious impediment to the kind of information-sharing that you envision. I think it's important.

My question is what steps are you taking or will you take to foster relationships with private industry and in turn increase the number of private industry participants in the Bureau's reporting system, which I think is essential here? And would you also speak directly to the concerns regarding the industry reporting process

and the fact that the information exchange is perceived as a one-way street? You know, it's got to be both because you have to rely on a lot of that.

Mr. COMEY. Thank you, Senator. Great question and a really important topic. One of the many great things about our amazing country is that our Internet is almost entirely in private hands. That's the way it should be. That's the engine of entrepreneurship and creativity in this country. One of the challenges that poses is that without the ability to share information effectively between the government and private enterprise, the law enforcers are left patrolling a street that, if you imagine, almost has 30-foot high solid walls on either side. I can declare that the street is safe, but I'm not really protecting the neighborhood because it's on the other side of the wall.

We have to find a way to share information in both directions, consistent with protecting the great liberties that underlie this country. So we at the FBI, and the Federal Government as a whole, have to get better at sharing actionable information with the private sector; not just telling them there's a problem in your system, but telling them, here's what it is, here's what it means, here's what you can do about it. And they need to do the same. They have a lot of smart people in private industry. When they see something, they've got to be able to share it with us.

So there are two things need to be done. We have to get better, and we're developing a whole host of ways to be more effective at our information-sharing. And we have to offer them clear rules of the road, so when they're looking to share information with us they understand how it will be used and how it might affect their shareholders, if it exposes them to lawsuits, and all the other things that come in this great country. So that bipartisan clarity needs to be offered.

Senator SHELBY. You're going to work on that, aren't you?

Mr. COMEY. We're working like crazy on that.

Senator SHELBY. That's good.

HAZARDOUS DEVICES SCHOOL

The Hazardous Devices School. The FBI's Hazardous Devices School trains and certifies public safety bomb technicians. You know this well.

Mr. COMEY. Yes, sir.

Senator SHELBY. In addition to providing basic training for bomb technicians, the Hazardous Devices School of the Bureau is also responsible for providing training in electronic countermeasures and advanced training in priority threat scenarios. State and local technicians are the first line of defense in responding to bomb threats, working with the Bureau. Ensuring that they're aware of the latest trends and are properly trained I think is very important and this school does a lot of this.

Could you talk just for a few minutes about the training capacity of your Hazardous Devices School today, specifically the number of students that it can accommodate, the number of classes offered annually, and the need that exists in terms of recertifying, as we evolve, the bomb technicians? And is there an unmet training need

in the community, and if so how can we address it, because we've got 300 million people and we do have some threats.

Mr. COMEY. Yes. Thank you, Senator. We have many.

One of the hidden gems of this country is the Hazardous Devices School, where, as you said, Senator, we train all bomb techs in the United States. So it's an effort that's a joint Federal effort that includes the Department of Defense, which is a key partner in the Hazardous Devices School. So it is a vital basic building block for people who want to become special agent bomb techs or want to become bomb techs in police departments.

What we need to do to make sure we're taking advantage of that gem is be able to offer advanced training certifications for people who have gone out and become bomb techs to come back to get refresher training and to get advanced training on the latest devices and threats. So we've done a good job at offering the basic training. What we need to find a way to do is to re-source that additional training and sophisticated refresher training for those bomb techs.

Senator SHELBY. You're going to have to get ahead of the terrorists in many ways, are you not?

Mr. COMEY. Yes.

Senator SHELBY. Because if you lag behind technically speaking, we're in a real threat area.

Mr. COMEY. Yes, sir. There are smart, evil people laying awake at night trying to find ways to defeat us and to find the next thing that we haven't caught up with. We need to be just as smart and just as wide awake.

TERRORIST EXPLOSIVE DEVICE ANALYTICAL CENTER

Senator SHELBY. The Terrorist Explosive Device Analytical Center, as we call it, TEDAC, is the single inter-agency organization to receive, fully analyze, and exploit all terrorist improvised explosive devices, or IEDs. Much of the TEDAC's work has come from Iraq and Afghanistan. But as U.S. forces withdraw from Afghanistan, TEDAC's focus will shift. I believe that the IED threat that we face at home or could face in the future makes the work of TEDAC probably more important than ever.

What's the FBI's vision for a postwar TEDAC and will the skills and capabilities shift with the threat, and if so what will it look like? Because you've got to be nimble here. Although we've been fortunate and the Bureau's done a great job and other law enforcement people, we can't be so smug or secure to think that people can't build those improvised explosive devices here, because they can. What are your thoughts in this?

Mr. COMEY. That's exactly right, Senator. TEDAC is a lifesaver. It has saved lives in Afghanistan and in Iraq. It saves lives all around the world. And I agree with you completely, the drawdown in Iraq and Afghanistan will not signal a drawdown in terrorist efforts to kill us with these explosive devices. In fact, what's happened is a lot of the terrorists have learned techniques in the war zones that they're now looking to spread around the world. So we have to stay on top of our game there. We need to continue to make sure we're drawing on the military for their advice and guidance. But TEDAC will save lives for the indefinite future because the threat is indefinite.

Senator SHELBY. Madam Chair, I have a couple of more questions that I'd like to submit for the record for the Director, because I know we have another closed hearing after this.

Senator MIKULSKI. Without objection, so ordered.

I want to turn now to Senator Boozman, but before I do I want to acknowledge that Senator Kirk was here. He has a longstanding interest and advocacy in this area.

We're doing 60 hearings in 6 weeks to move our deadlines. So Senators are stretched. But we want to also acknowledge that if Senator Kirk has any questions we'll submit them to the record. We also know his longstanding interest in fighting gangs, as we noted, and I'm sure he'll have questions in this area.

Senator Boozman.

Senator BOOZMAN. Thank you, Madam Chair, very much.

Thanks for being here. We appreciate you and appreciate the great job that the FBI does and the dedication that's represented there.

AGRICULTURE ESPIONAGE

Recently in Arkansas we had a situation where some people were arrested for espionage in the farm sector. I'd like for you to talk about that a little bit. I think there's a lot of surprise that we saw that in Arkansas, again in the farm sector. Something I think is really important, it's kind of like—I'm an optometrist by training, an eye doctor, and so it's much better to prevent things than it is to let them happen. Can you talk a little bit about some of the things that you are doing, some of the things you'd like to do that aren't getting done, to really make our companies, make us as a Congress, aware that these things are going on, how we can help you in that regard?

ESPIONAGE

Mr. COMEY. Yes, thank you, Senator. There's no doubt that foreign nation-states, especially China, want to steal our ideas. The ideas of America are not just in Internet companies. They're often in the creative work that agriculture companies are doing to develop disease-resistant seeds or crops that will produce greater yields with less water, things that will help people.

The source of that entrepreneurship and that energy are the great people here in the United States working in labs and working in companies. There are countries around the world that, rather than do that work, would like to steal it from us, which would sap that energy and that entrepreneurship and kill that spirit that's at the center of this country.

So it's something we focus on constantly. It's the reason we have counterintelligence at the top of our list, because there are people in cases that we've brought who are looking to steal seed technology, every bit as much as people want to steal intellectual property on the Internet. So what we're doing is trying to make sure we're aggressive in those cases, so that when we catch folks doing that, they understand there's a cost to it. We're going to lock people up for that. It's not a freebie to take America's seed technology. And we're trying to put in place tripwires so that companies, whether it's agricultural companies or whether it's a software com-

pany, understand when they see something that doesn't seem right to them, they've got to call us, because bad people are looking to steal things that matter to you enormously.

Those tripwires are very valuable and contributed in the case that you were referring to and other cases that we've brought that relate to agricultural theft.

Senator BOOZMAN. Very good.

CYBER SECURITY

In a related area, cyber security, certainly you are doing a lot in that regard, I think hopefully in educating and again in getting after folks that are doing that. The private sector is doing a pretty good job of that, and the private sector has a tendency to perhaps be a little bit more innovative or move a little quicker with things. Can you talk about some of the public-private partnerships that you're pursuing in that regard, or are you pursuing public-private partnerships?

Mr. COMEY. Yes, we are, Senator, for the reasons you said. I spent the last 8 years working at two world-class companies in two different industries and there's no doubt that private industry is spending the money to get the talent on board to think in a good way about those challenges. So they've got a lot of brainpower.

We have to be smart by connecting ourselves to that brainpower. I've got a lot of smart people. I don't have all the smart people in the world. A whole lot of them are in private enterprise. So as I said in response to Senator Shelby, we have to get better at connecting ourselves.

Therefore a bunch of different ways in which we're trying to do that. We have an effort called Infraguard, where we're trying to join together in partnership all around the country with private industry. We have something called DSAC, the Domestic Security Alliance Council, to accomplish the same mission. But whatever it's name, we need to make sure we're connected to them.

One of the obstacles is we live in a litigious society—I was the general counsel of two companies and I know as the general counsel you worry: if I cooperate with the government, is someone going to sue me, claim that I violated some obligation to protect information? It's one of the reasons I think it's so important that we, through legislation, offer those clear rules of the road to those general counsels so they can tell their tech geeks, you can go ahead and share this and here's what the rules are.

LEGAL ATTACHÉ OFFICES

Senator BOOZMAN. You mentioned in your testimony about opportunities to establish offices worldwide, in the Middle East, Africa. Can you talk about some of the barriers that you're running into in that regard or some of the obstacles perhaps that you face in trying to get that done?

Mr. COMEY. Well, in our Legal Attaché program—we call them "LEGATs"—we have 64, I think that is the number, around the world. I have visited now ten of them and discovered that they are, as I said, not just a representative of the FBI, but of the entire United States, a tremendous force multiplier for us.

So the obstacle is I simply need to make sure that I identify more good people and have the resources to develop those offices at embassies around the world. So I'm going to be looking to do more of that early in my tenure. It's simply a question of identifying the talent and having the resources to do it.

Senator BOOZMAN. Thank you, Madam Chair.

Senator MIKULSKI. Thank you, Senator.

The question of the international assistance I think is really something the committee needs to pay attention to. I believe there are 60 LÉGAT offices around the world. Am I correct?

Mr. COMEY. I think the number is 64.

Senator MIKULSKI. Some are micro, but some are robust in countries where we need to be robust or have been invited?

Mr. COMEY. Yes, that's exactly right.

Senator MIKULSKI. And they're not secret. They're known. In other words, the private sector—first of all, the host country knows, etcetera.

Mr. COMEY. That's correct.

Senator MIKULSKI. They're usually cooperating locally and working regionally; am I correct?

Mr. COMEY. That's correct, Senator.

Senator MIKULSKI. You want to add 14—the President's budget and I believe yours is 14 positions, for a modest \$3.2 million; is that correct?

Mr. COMEY. That's correct. That's what I meant by the resources to spread that great thing a little bit farther out.

Senator MIKULSKI. Yes. And it would mean a lot to some of these countries for us to have a presence?

Mr. COMEY. Oh, yes. I got a call this morning with a foreign counterpart who asked me about that. They find them incredibly valuable as a gateway that swings both ways. It gets our country information, but also helps them get assistance, especially training for their law enforcement.

Senator MIKULSKI. And a presence, that the FBI is not the KGB.

Mr. COMEY. We are not.

Senator MIKULSKI. That's what I hear a lot.

Mr. COMEY. Nice to show people that.

Senator MIKULSKI. Yes.

Senator Murkowski.

Senator MURKOWSKI. Thank you, Madam Chairman.

Good morning, Director. I appreciate your leadership here. A couple years ago when your predecessor, Director Mueller, appeared before our subcommittee—this was in 2012—Senator Hutchison, who served on the committee as well, she and I asked him about the possible FBI misconduct in the investigation and the prosecution of Senator Ted Stevens. I'm assuming or I'm hopeful that in preparation for today's hearing your staff might have told you that it was a whistleblower complaint of an FBI agent named Chad Joy that first brought the misconduct to light.

EMPLOYER MISCONDUCT RELATING TO STEVENS INVESTIGATION

I haven't heard anything about the FBI's probe into Agent Joy's allegations since 2012. So the question that I have for you this morning: The Director at that meeting told the committee that the

FBI's investigation of employee misconduct is still pending relating to the Stevens investigation. That was 2 years ago. We're here in 2014. So the question is whether or not the FBI's investigation has been concluded and, if so, what was the outcome of that investigation, and if there has been any corrective action taken if you could inform me?

SENATOR STEVENS INVESTIGATION

Mr. COMEY. Yes, Senator. Thank you for the question and for the opportunity to update you. I did learn about this in the last week and get briefed in detail. The Office of Professional Responsibility, OPR, inside FBI did investigate in response and identified an agent who had engaged in improper conduct, and the agent was severely disciplined. The discipline has been imposed. On top of that, we pushed out refresher training to the entire workforce, especially about our discovery obligations and how we expect them to conduct themselves during those investigations.

So both broad remedial work was done and individual discipline was imposed for the agent involved.

Senator MURKOWSKI. Was there a report that was prepared, and if so would you be able to provide the subcommittee with a copy of that?

Mr. COMEY. I don't know—I'm sure something was written up because we always have written support for discipline imposed. I'll check and get back to you on it.

[The information follows:]

OPR REPORT ON TED STEVENS CASE AGENT

Sensitive employee personnel information is contained in Office of Professional Responsibility reports. As such, the FBI can provide a briefing on these documents in an appropriate setting.

Senator MURKOWSKI. I'd appreciate that.

I had also asked about whether or not the agent who had brought this issue to the forefront, Agent Joy, had received any recognition from the FBI for really stepping up there. Director Mueller indicated at that time he didn't know whether or not there had been anything that had been done to recognize Agent Joy.

In fact what happened was that Agent Joy left the Bureau. He believes that his career was undermined by the whistleblowing. Again, as you are looking to this issue, if you might look into this specific situation regarding Agent Joy and really whether or not the Bureau did right by him, because I think we all pay attention to what goes on with whistleblower situations, but if there is a perspective or a view within the agency that not only are whistleblowers not rewarded, but in fact there are consequences, negative consequences at the end, that's something that I think we need to certainly be aware of.

Mr. COMEY. Thank you for raising that. I don't know, but I'll find out.

[The information follows:]

AGENT JOY WHISTLEBLOWING

The FBI can provide a briefing on this sensitive personnel matter in an appropriate setting.

Senator MURKOWSKI. I appreciate that.

Mr. COMEY. Because I share your belief that whistleblowers are essential to a healthy institution. And I have a practice now where I call individual agents and support people around the country to thank them, for not famous acts, but for good pieces of work. So I'm going to follow up and find out where this fellow is, because maybe it's worth a phone call from me.

Senator MURKOWSKI. I appreciate that.

HUMAN TRAFFICKING IN NATIVE COMMUNITIES

One final question then for you, and this relates to human trafficking in our Native communities, not a subject that any of us want to talk about particularly, but I think that this is an area that is grossly underreported. Research that documents the extent of a problem is often done in the universities and think tanks. My alma mater out in Oregon, Willamette University Law School, released a report on the extent of human trafficking in Oregon. In Alaska, it's the Salvation Army that has made the note that Natives are one of the populations most vulnerable to human trafficking. Traffickers apparently will sell Alaska Native women and girls believing that their ethnicity is more appealing to buyers. It sickens you to even be discussing it.

The FBI budget document speaks to the Bureau's role in human trafficking, but it doesn't specifically address the commitment of resources to human trafficking that involves Native women, American Indians or Alaska Native women. We all know that this problem is continuing to grow. So I'd ask what the Bureau is doing today to address the problem, what more you could be doing in these areas, and in terms of your statistical capabilities to what extent is the Bureau able to track to victimization of American Indians, Alaska Native women who are trafficked, and is there more that we can do to focus on this demographic?

Mr. COMEY. Thank you for the question. The answer is I don't know, but it's something that I need to get smarter about, because I learned a lot in the 6, 7 months I've been on the job about human trafficking and I've been shocked by it, just as you are, and about crime in Native American communities. But I have not thought well about this specific human trafficking issue in Native American communities, but I will.

This question of research is also very interesting to me. I don't know whether we do a good enough job at the national level to think well about the problem. Chairman Wolf in the House has suggested that maybe we ought to add that capability to the National Gang Intelligence Center, so that we have people who wake up every morning thinking about it holistically, which is also something I'm going to look at.

But I will get smarter and get back to you.

[The information follows:]

HUMAN TRAFFICKING OF NATIVE AMERICANS

The FBI is actively engaged in efforts to identify and combat human trafficking involving tribal communities. The FBI has strengthened its work through ongoing collaboration with U.S. Attorney's Offices and other Federal, State, local, and tribal partners. Through these partnerships, the FBI provides training, conducts investiga-

tions, and supports trafficking victims in tribal areas, including, in South Dakota and the Bakken oil-producing region of North Dakota and Montana.

In January 2014, the FBI Office for Victim Assistance collaborated with the FBI Civil Rights Unit and Violent Crimes Against Children Section, as well as the Department of Health and Human Services, to conduct Webinar trainings for FBI personnel to commemorate National Slavery and Human Trafficking Prevention Month. Training topics included: coordinating large scale operations that focus on domestic minor sex trafficking; human trafficking in Indian Country and the Bakken region of North Dakota and Montana; identifying resources and services available to adult and foreign minor victims of human trafficking; and, understanding and identifying labor trafficking.

Senator MURKOWSKI. I appreciate that. We have resources clearly in Alaska that have been looking very specific to the issues as it relates to Alaska Native women, and I know your folks on the ground up north are very capable in this area. But if we can have a broader understanding as to the issue in this country as it relates to our indigenous people, particularly our women and girls, I think it would be a very important focus.

Thank you, Madam Chairman.

Senator MIKULSKI. The vice chairman has an additional question. I just would like to amplify what Senator Murkowski has said. Both she and then Senator Cantwell, who chaired our Committee on Indian Affairs that's Pacific Northwest-focused, have spent a lot of time really on what is happening to Native Americans in this country and particularly the women and the children. They're not only a great resource to you, but a great way for you, to point you to these resources where a lot of work has been done, but not a lot of action has happened.

Does that summarize it, Senator?

Senator MURKOWSKI. Yes.

Senator MIKULSKI. So look to us here and we can help you get smart about it, and then let's get a real action plan.

Senator Shelby.

Senator SHELBY. Thank you, Madam Chair.

CHILD EXPLOITATION AND CHILD PORNOGRAPHY

I want to follow up on this area, Mr. Director. I have visited Eastern Europe and the Ukraine and other areas where a lot of the human trafficking of young women that have been abused, to say the least, as you well know, into forced prostitution of different kinds, child pornography, everything, just small children. That is a big, big business, especially the child pornography. It's international in scope. It's obviously—it's hard to stamp out.

But in America, a lot of Americans are buying movies of this. It's sickening. But on the Banking Committee I remember Senator Sarbanes—I was chairman on the committee and he was ranking, and then he was chairman and I was ranking. We worked together on this a lot, dealing with the payment system, because the key is the credit card system, how do you pay for it?

The FBI and the Justice Department have been very good. It's very complex, very hard to discern everything. But it's one of the worst things that you could imagine, and you have. And if you have children or grandchildren or both, you think, my gosh. But the trafficking, the human trafficking of young women and young children and the exploitation of it is something that the Bureau has been

very good and the Justice Department. But it's such a massive thing to get our hands around.

Do you want to address that at all, and the FBI's interest here?

Mr. COMEY. It is a massive problem, as big as the Internet. The explosion of the Internet has brought with it an explosion in child exploitation and child pornography. It's an enormous machine that at the back end people are viewing child pornography, at the front end children are being fed into the engine. It's one of the reasons that it drives me a bit crazy when I hear people say: Oh, they were just looking at child pornography. Your just looking at child pornography, first of all, is sick in and of itself and raises serious concerns about whether you're abusing children in your own life.

Senator SHELBY. But it pays for it.

Mr. COMEY. Yes. But it's their desire to see fresh images that powers the engine at the front and leads to this voracious consumption of child pornography. So there's no such thing in my view as just looking at child pornography. It's a serious crime. It has to be taken seriously. It's something that, as Senator Mikulski knows—who is one of the great supporters of our “Innocent Images” program—it's something we are passionate about. We have to send a message both to those who would profit from the business, those who would view and become the consumers that drives this engine, and those who would touch the children and destroy them to produce those images. So we have to hit the whole train.

Senator SHELBY. Have you had real cooperation from, say, the people of the Ukraine and Russia and some of these other countries where a lot of this trafficking and filming and everything takes place?

Mr. COMEY. The answer is yes, because, despite what political differences we may have, all humans are revolted by the abuse of children, exploitation of children. So that's an area in which we can find common ground even with the folks in Russia.

Senator SHELBY. Thank you, Madam Chairwoman.

ADDITIONAL COMMITTEE QUESTIONS

Senator MIKULSKI. There are many more questions to be asked, but we're now going to move to our classified hearing. So this subcommittee will temporarily recess and reconvene in closed session at the secure facility in the Capitol Visitors Center, where we can consider those matters that require more classified conversation, particularly in the global war against terrorism, espionage, and these other vile, vile, and repugnant international crimes against children.

[The following questions were not asked at the hearing, but were submitted to the agency for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

SHOOTING OF IBRAGIM TODASHEV

Question. What measures have you taken to ensure the American people that FBI shooting incidents, including the one in Florida last May, are investigated fairly and independently?

Answer. In 1982, then Director William Webster approved the establishment of the Shooting Incident Review Group (SIRG) which is comprised of the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ) representatives to review and assess all shooting incidents involving FBI personnel. The SIRG pro-

vides the Director and FBI Headquarter Executive Management evaluative analyses, observations, and recommendations concerning operational, training, and other relevant issues, including the need for referral to the DOJ, Office of Inspector General (OIG), or the FBI's Internal Investigations Section for further administrative or disciplinary review, if deemed necessary. In 1995, the DOJ Office of Investigative Agency Policies adopted "Resolution 13," which further formalized the process by which DOJ investigative agencies conduct post shooting incident reviews. Central to "Resolution 13" was the requirement that the intentional and unintentional discharge of a firearm by a DOJ employee be expeditiously reported, documented, investigated, and reviewed.

In accordance with the establishment of the SIRG and "Resolution 13," the FBI utilizes a Shooting Incident Review Team (SIRT) to conduct an administrative inquiry of every Agent Involved Shooting (AIS) for the purpose of assessing and documenting the use of force incident, and to provide the DOJ Civil Rights Division sufficient information to make a prosecutorial determination. Each SIRT prepares a comprehensive report for the SIRG. Each SIRG meeting is attended by a representative of the DOJ OIG. The SIRG independently reviews FBI shooting incidents to determine whether the use of deadly force was reasonable, and in accord with the DOJ Deadly Force Policy and the law. The SIRT process is designed to inform affected field offices, and other FBI personnel, of findings or lessons learned from an operational, administrative, tactical, and training perspective.

The FBI routinely conducts AIS reviews in coordination with State and local authorities. FBI SIRT's jointly conduct post-shooting interviews and coordinate reporting to ensure both State/local and DOJ prosecutorial offices have information necessary to make an independent prosecutorial decision. DOJ and State/local prosecutors have independent, concurrent jurisdiction regarding Federal and State charges and coordinate with each other as appropriate.

FORENSICS REFORM

Question. Would you agree that there must be national leadership in the area of forensic science, and that the Department of Justice, working with the FBI and other elements of the executive branch, can play a central role in the development of this important part of our criminal justice system?

Answer. National leadership in the area of forensic science is of utmost importance. For over three quarters of a century, the Department of Justice and the FBI have served in such a leadership role, both nationally and internationally, for the forensic sciences.

Question. Will you commit to working with me on the forensics reform bill that I introduced today?

Answer. The FBI, in conjunction with other DOJ components takes the issue of improving forensics seriously and the Bureau would be glad to work with the Senator to provide feedback or technical assistance sought on legislation.

QUESTIONS SUBMITTED BY SENATOR JEFF MERKLEY

WHITE-COLLAR CRIME

Question. Could you please provide, in both real and proportional to the rest of the Department of Justice's (DOJ's) resources, what percentage of DOJ and the Federal Bureau of Investigation (FBI) resources have been dedicated to white-collar crime in general and mortgage fraud specifically over the past 20 years with a particular focus on times when high amounts of white-collar crime needed to be pursued, such as the economic fallout of the savings and loan crisis and the popping of the dot come bubble?

Answer. As an intelligence-driven, law enforcement and national security organization, the FBI has responsibility to address a variety of threats to include Terrorism, Counterintelligence, Cyber and a multitude of Criminal threats to include Public Corruption, Civil Rights, Organized Crime, Complex Financial Crime, and Violent Crime. Each year, the FBI utilizes intelligence to determine the appropriate ranking of those threats. Within the priority area of Complex Financial Crime, the FBI addresses the threats of Securities and Commodities Fraud, Corporate Fraud and Mortgage Fraud, among others.

Prior to the mortgage fraud crisis that emerged several years ago, the FBI did not track mortgage fraud separately, outside of its White-Collar Crime program, and thus cannot provide trends from the past 20 years. The chart below provides data since 2008.

WHITE-COLLAR CRIME

Type	2008	2009	2010	2011	2012	2013	2014
Department of Justice							
Mortgage Fraud	\$ 69,546,000	\$111,508,000	\$151,984,000	\$114,475,000	\$141,308,000	\$121,731,000	\$129,338,000
Other White-Collar Crime	435,120,000	478,570,000	436,598,000	532,399,000	528,001,000	569,322,000	586,553,000
Total	504,666,000	590,078,000	588,582,000	646,874,000	669,309,000	691,053,000	715,891,000
Federal Bureau of Investigation							
Mortgage Fraud	32,203,000	66,763,000	94,287,000	70,131,000	69,048,000	53,564,000	59,497,000
Other White-Collar Crime	57,806,000	64,745,000	81,031,000	139,781,000	140,468,000	145,756,000	161,716,000
Total	90,009,000	131,508,000	175,318,000	209,912,000	209,516,000	199,320,000	221,213,000

Question. Please provide estimates in the differences in the resource costs required for the pursuit of individuals versus that of companies. Additionally, could you please provide estimates of resources required to prepare a case to be taken to court versus establishing non-prosecution and deferred prosecution agreements with companies?

Answer. Investigations into complex financial crimes commonly require the FBI to consider both individual and entity level criminal culpability. The investigations into individuals and entities have significant overlap as the individuals interviewed, documents analyzed, and investigative methods typically serve the dual purpose of uncovering the underlying facts, which may support charging individuals, entities, or both. Therefore, the FBI is unable to quantify the differences in resources required for the pursuit of an individual versus an entity. When investigating individuals, due to certain fact patterns, it is often appropriate to incorporate an investigation into the entity as well. An entity can also serve as a cooperator in investigations and the ultimate resolution reached with an entity can be significantly influenced by its level of cooperation, among other factors.

With regard to the differences in resources dedicated to investigations going to court versus those that end in non-prosecution agreements (NPAs) or deferred prosecution agreements (DPAs), the FBI's investigative strategy is one that rests on the assumption that all criminal investigations will be taken to trial. Doing so ensures a comprehensive investigation has been conducted and that the FBI is positioned to withstand the scrutiny of a trial by jury, if necessary. Conducting an investigation in this manner enables the FBI to more persuasively articulate the nature of the offenses and the evidence of those offenses by the targeted individuals, thereby increasing the likelihood of individual pleas or corporate resolutions without the need for a trial. For that reason, there is no significant difference in the cost for the FBI to investigate cases that proceed to trial and cases resolved without a trial.

CRIMINAL REFERRALS FROM FINANCIAL REGULATORY AGENCIES

Question. Please provide numbers for how many criminal referrals the FBI and DOJ has received from financial regulatory agencies year by year since 1990, broken down by referring agency. Has the number of criminal referrals from financial regulatory agencies changed over the past decade? Has there been a significant decline? If so, how does the FBI account for such a decline? What could the FBI do to train and encourage regulatory agencies to refer criminal activity for FBI investigation? Does the FBI have adequate resources to take on such activity?

Answer. The FBI does receive referrals from Federal regulatory agencies, but the number of referrals is not tracked; therefore, the FBI cannot assess trends in referrals. The FBI does work closely with other law enforcement and regulatory agencies to address complex financial crime. Understanding the current threat picture is essential to appropriately address the complex financial crime threat. FBI headquarters is actively engaged with private sector and other governmental agencies to understand the nationwide complex financial crime threat. This collaboration enables the development of a holistic view of the threat and identification of nationwide and local trends.

On a local level, the FBI is committed to working with local, State and Federal partners to investigate, prosecute, and collect and disseminate intelligence related to complex financial crimes. The FBI currently operates 21 Financial Crimes Task Forces throughout the United States. These task forces include at least 11 Federal agencies outside the Department, as well as partners within the Department, and over 30 local or State law enforcement and regulatory agencies. In total, the FBI

is dedicating nearly 900 agents and more than \$200 million to combat corporate, mortgage, and securities fraud and other economic crimes.

The FBI recognizes the importance and value in continuing to build and maintain strong working relationships with regulatory partners like the U.S. Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). As such, the FBI embedded Supervisory Special Agents and analysts within the SEC and CFTC to conduct real-time review of complaints and tips received by these agencies to determine if the information is relevant to an ongoing FBI investigation or should be referred for the opening of a new investigation. This greatly reduces the likelihood of relevant information slipping through the cracks. The placement of FBI personnel within these key regulatory agencies allows for earlier FBI involvement in parallel investigations and increases opportunities for the successful use of proactive and sophisticated techniques in complex investigations.

INVESTIGATING MULTINATIONAL COMPANIES

Question. The FBI is sometimes tasked with investigating very large, complex multinational companies, which could cost millions to investigate thoroughly. How does the FBI work with larger corporations in investigating criminal activity? How dependent is the FBI on information obtained through the internal investigations of companies? Does the FBI have adequate personnel to verify information provided by companies in their internal investigations? Could you please identify some examples of when the FBI has brought on experts from other agencies to assist in such investigations?

Answer. It is true that the nature of financial crime is becoming more complex than ever before. The complexity is driven by the nature of the offenses, the use of technology and more frequently, the international scope of investigations. Companies may serve as witnesses, victims, or as the targets of investigations. Regardless of the role, if the company is not deemed to be inherently criminal in nature, e.g., an established corporation with legitimate business interests versus a corporation created for the sole purpose of operating a Ponzi scheme, the company can serve as a tremendous source of information and a resource that can be leveraged to develop a more efficient investigative strategy. For example, cooperating companies, through their internal investigations, can review documents, identify witnesses, and provide an initial analysis of data. Although these efforts on the part of the company can aid an investigation, it would be inaccurate to describe the relationship as one where the FBI is dependent on the company and its internal investigation. The FBI has alternative methods to relying on the company's cooperation. For example, the FBI can collect records via a search warrant (given appropriate authority). Voluntary production of records can be mutually beneficial to both the Government and the company, but it also introduces the risks of completeness and accuracy of the data produced. Given that the company is likely not impartial, the investigative strategy must address these added risks. These risks can be addressed through a number of investigative methods, including interviews, independent verification from an external source, detailed descriptions of the internal investigation process with company counsel, and/or conducting our own analysis of the records.

FBI investigations into Complex Financial Crimes typically involve a number of FBI personnel, to include Special Agents, Forensic Accountants and Intelligence Analysts. The FBI also works closely with prosecuting offices and regulating agencies such as the Security Exchange Commission (SEC). The FBI regularly leverages experts and industry specialists from regulatory agencies conducting parallel investigations of Complex Financial Crimes. The use of these experts and industry specialists ranges from witness testimony during trial to serving as a resource during the investigation. For example, the FBI has utilized individuals from the Financial Industry Regulatory Authority-Criminal Prosecution Assistance Group (FINRA-CPAG) to analyze financial data, assess the risks associated with certain types of securities investments, review private placement agreements, and create summary data for trial. Economists and industry experts from the CFTC have identified, analyzed, and reported on brokerage records and provided technical assistance on investigations of commodity fraud. Industry specialists from the SEC have analyzed financial statements and served as Government witnesses during insider trading investigations. The FBI has also utilized the National Futures Association (NFA) for expert testimony on matters involving commodity fraud.

MORTGAGE FRAUD CASES

Question. In fiscal year 2013, the number of suspicious activity reports (SARs) related to mortgage fraud dropped 25 percent to just over 69,000, but could you pro-

vide a breakdown of how many SARs were investigated, bundled into a larger investigation, or were found to have insufficient information for investigation? Is there a backlog of cases the FBI plans to pursue from this surge of SARs following the financial crisis?

Answer. The FBI does not track, at the individual SAR level, whether SARs generate cases or are bundled into larger investigations. Each SAR filing does not equate to predication to initiate an investigation as an individual SAR may not provide enough information to open an investigation or multiple SARs may lead to one investigation. The FBI is unable to address every complaint of mortgage fraud, but attempts to work higher level cases which involve multiple victims, higher dollar losses or fraud activity, and/or target organized groups involved in the fraud. SARs are a valuable tool in identifying such networks but very often multiple SARs are associated with one group; therefore, these multiple SARs would be utilized to initiate one FBI investigation.

The FBI does not track the quality or sufficiency of SAR data other than to assess whether they can be utilized for lead value and therefore incorporated into new or existing investigations. The FBI does not currently have a backlog of cases from SARs associated with the financial crisis.

FOLLOW-UP ON DEFERRED AND NON-PROSECUTION

Question. How does the FBI conduct follow-up on non-prosecution and deferred prosecution agreements to ensure that companies are making the necessary reforms?

Answer. As elements of some deferred prosecution agreements (DPAs) and non-prosecution agreements (NPAs), companies are required to engage in remediation or compliance reforms. In such agreements, the Department of Justice includes a mechanism to ensure that companies may be taking the required actions. Generally speaking, this mechanism takes one of two forms: an independent compliance monitor who reports to the Department on a regular basis, or Department oversight, supported by mandatory self-reporting by the company on its efforts.

As an example of a corporate monitorship, in a December 9, 2013 DPA resolving Foreign Corrupt Practices Act (FCPA)-related charges against Bilfinger SE (“Bilfinger”), Bilfinger agreed to retain a corporate monitor for not less than 18 months. The monitor’s mandate under the DPA is to evaluate “the effectiveness of the internal accounting controls, record-keeping, and financial reporting policies and procedures of the company as they relate to the company’s current and ongoing compliance with the FCPA and other applicable anti-corruption laws[,]” including an assessment of the executive board’s and senior management’s commitment to, and effective implementation of, the corporate compliance program imposed as part of the DPA. Furthermore, under the DPA, the monitor is required to consult regularly with, and disclose any violations of law to, the Department. If the monitor concludes that the company has not instituted effective reforms or has engaged in further misconduct, then the monitorship may be extended or other action taken. Otherwise, the monitorship ends at the conclusion of the 18 month period and, for the remaining 18 months of the DPA, Bilfinger is required to self-report to the Department in a manner consistent with that described below.

As an example of oversight and self-reporting, in an April 9, 2014 DPA resolving Foreign Corrupt Practices Act (FCPA)-related charges against Hewlett-Packard Polska, SP. ZO.O. (“HP Poland”), HP Poland is required to report to the Department annually during the 3-year term of the DPA regarding its “remediation and implementation of the enhanced compliance measures” that it agreed to undertake as part of the DPA. The Department, in its sole discretion, determines whether the terms of the DPA have been met. Pursuant to a reporting schedule established in the DPA, HP Poland is required to “submit to the Department a written report setting forth a complete description of its remediation efforts to date, its proposals reasonably designed to improve the company’s internal controls, policies, and procedures for ensuring compliance with the FCPA and other applicable anti-corruption laws, and the proposed scope of the subsequent reviews[,]” which shall “further monitor and assess whether the company’s policies and procedures are reasonably designed to detect and prevent violations of the FCPA and other anti-corruption laws.” Moreover, the DPA provides that, “should the company discover any evidence or allegations of possible corrupt payments, false books and records, or the failure to implement or circumvention of internal accounting controls, including the existence of internal or external investigations into such conduct, the company shall promptly report such evidence or allegations to the Department.”

Department prosecutors review the monitor reports and corporate self-reports, meet with the monitor and/or corporate representatives as appropriate to follow up

on issues identified in the reports, and initiate further investigation where warranted. Under the terms of DPAs and NPAs, if the Department determines that a company has not made the required reforms, or has engaged in further misconduct, the Department has a range of options it may pursue, including but not limited to extending the terms of the DPA or NPA or declaring the company in breach of the DPA or NPA and instituting criminal prosecution against the company.

OIG REPORT

Question. Has the FBI taken steps to raise the prioritization of mortgage and mortgage-related securities fraud within its various field offices?

Answer. In its response to the OIG report, the Department noted that it has focused successfully on mortgage fraud violations. As the FBI data in the audit report itself reflects, the number of mortgage fraud convictions more than doubled from fiscal year 2009 to fiscal year 2010, i.e., from 555 to 1,087 convictions, and then increased further in fiscal year 2011 to 1,118 convictions. In addition, the Department concurred with all of the recommendations made by OIG including: ensure all agencies update online and other publicly available material related to the Distressed Homeowner Initiative; revisit results of Operation Stolen Dreams to determine if corrective action on publicly reported results is necessary; implement methodology for properly soliciting, collecting and reviewing information; revisit existing guidance on initiating mortgage fraud undercover operation; and develop a method to readily identify mortgage fraud criminal and civil enforcement efforts for reporting purposes.

With respect to prioritization, in 2011, mortgage fraud was ranked as a priority area under the Criminal Investigative Division's Complex Financial Crime category. Not every type of fraud was ranked as a priority threat during this time period, which demonstrates that the FBI considered mortgage fraud to be among the most prominent financial crimes we faced at the time.

We also recognize that the Inspector General contended that mortgage fraud was a low priority or not listed as a priority at various FBI Field Offices, including the Baltimore, Los Angeles, Miami, and New York offices. We note, however, that during the period covered by the audit, all threats were prioritized at the headquarters level, and that FBI field offices did not re-rank threats within their own geographical areas. As noted above, mortgage fraud was ranked as a priority threat, and the various field offices would have utilized that prioritization instead of coming up with their own rankings. Beginning in 2013, however, FBI field offices were required to rank their own threats based on domain assessments, ongoing intelligence collection and ultimately, with approval from FBI Headquarters. We can report that Baltimore, Los Angeles, Miami, and New York all rank mortgage fraud as a priority threat.

 QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

CYBER SECURITY EFFORTS WITH PRIVATE INDUSTRY

Question. Given the growing cyber security threat facing our Nation and the challenges inherent in facilitating private industry reporting of attacks what is the FBI doing to facilitate participation in the EGuardian program?

Answer. Uniquely tailored for the particular challenges of cyber, the "Guardian for Cyber" application expedites the triage and deconfliction of leads submitted from multiple sources, which are then immediately assigned and assessed by the FBI and other government agency (OGA) partners. The system now includes secure, cyber-specific incident submission portals that consolidate critical information provided by both law enforcement (eGuardian) and trusted industry stakeholders (iGuardian). This response provides information regarding engaging the private industry with iGuardian.

The FBI's trusted industry partners have access to iGuardian, a secure method to report cyber intrusions and submit malware for analysis and feedback through the InfraGard Network. InfraGard is a partnership among the FBI and the private sector, educational institutions, local, State, and Federal Government organizations that are dedicated to protecting our national critical infrastructure by sharing information regarding both cyber and physical threats and vulnerabilities. InfraGard has a current active membership base of approximately 25,000 members.

At the request of FBI's private industry partners, the FBI has presented iGuardian overviews to critical infrastructure associations, alliance councils, and conferences. The interest to join the iGuardian portal has been significant. From concept to development, the FBI has been working with these partners through a

collaborative process to build a system to fulfill their needs. Every step of the way we have sought and incorporated private industry input.

The FBI is executing an iGuardian pilot program with five cleared facilities and is scheduled to be launched through an enhanced portal on FBI.gov. Once launched, the FBI will initiate the process for industry to apply for access through FBI.gov. Additionally, the FBI is in the process of enhancing the portal to be utilized to report multiple hazards, to include Counterterrorism, Counterintelligence, Criminal, and Cyber.

Question. Is this system open to all industries for reporting of cyber attacks? If not, what industries are participating? Is there a schedule to assimilate all industries into the system?

Answer. The system is accessible to all industries through the FBI's InfraGard network. The enhanced iGuardian portal, to be used by general industry, in addition to InfraGard members, has been launched. Five large, cleared facilities have provided their assistance to the FBI in enhancing this portal and piloting its initiation. This will significantly expand the Federal Government's increased awareness of vulnerabilities in critical infrastructure networks, to better understand cyber-related threat vectors, and to facilitate a coordinated overall cyber incident response by the U.S. Government. The FBI anticipates the Defense Security Service (DSS) will support the iGuardian portal as a threat submission tool that could be used by all cleared facilities. This will satisfy numerous existing requirements described in the National Industrial Security Program Operating Manual (NISPOM), section 941, among others.

The FBI is working as quickly as possible to fill the need to assimilate all industry into the iGuardian system, but there is no timeline established.

Question. Are there currently any requirements for industry to report cyber attacks? If so, what are those requirements?

Answer. The FBI is not aware of any requirement for industry to report to the FBI.

Question. Do you have any way of knowing the percentage of attacks on each entity or industry that are actually reported?

Answer. Due to the lack of required reporting by industry, the total number of cyber attacks made against entities and industries is unknown. Therefore, the Cyber Division cannot estimate the percentage of cyber attacks that are not reported to the FBI. However, based on data collected thus far, currently there are more than 4,100 reported incidents in Guardian categorized by sector, e.g. commercial sector, information technology, cleared defense contractors, Internet service providers, public health, financial services, education, and communications.

CYBER SECURITY

Question. Cyber security has topped the Director of National Intelligence's list of global threats for the second consecutive year. However, the FBI's mission prioritization does not seem to reflect the significance of the cyber threat we are facing. What's more, the budget request flat lines this growing threat. What reassurance can you give us that your mission prioritization is evolving with the threats our country is facing? Does this budget adequately resource the needs of the Bureau in key areas such as cyber security?

Answer. Through the support of the Congress, the FBI received funding in fiscal year 2014 that ended the hiring freeze and allows FBI to start hiring again. The fiscal year 2014 hiring effort will include personnel who will be dedicated to cyber efforts. Additionally, the fiscal year 2014 appropriation included a program increase to support the Next Generation Cyber Initiative. These fiscal year 2014 resources are critical to enhancing the FBI's cyber capabilities in the face of the growing cyber threat. The fiscal year 2015 President's budget request includes funding to sustain the critical improvements and enhancements in cyber security provided in fiscal year 2014. Cyber Security remains an FBI priority in fiscal year 2015.

The FBI's Cyber Division has developed and is implementing a new strategy, the Cyber Threat Team model, in which named threats are explicitly prioritized using an objective model, specialized teams of dedicated Field and HQ personnel are built for the highest priority threats, and detailed and explicit mitigation strategies are developed and implemented against these high priority threats.

HAZARDOUS DEVICES SCHOOL

Question. Could you detail the training capacity of the Hazardous Devices School today? Specifically, the number of students that it can accommodate, the number of classes offered annually and the need that exists in terms of re-certifying bomb technicians?

Answer. The current maximum throughput for the Hazardous Devices School (HDS) using the current curriculum is 1,214 students. HDS intends to operate at capacity in fiscal year 2015. In fiscal year 2014, HDS is operating slightly below capacity due to cancellations in October 2013 during the lapse in appropriations, and will train 1,014 bomb technician students in the following courses:

- 6 Bomb Technician Certification Courses (six weeks), instructing 24 students per class—(maximum capacity: 8 classes);
- 28 Bomb Technician Recertification Courses (one week, required every 3 years for certified technicians), instructing 24 per class—(maximum capacity: 30 classes);
- 1 Bomb Squad Commanders class for 30 students;
- 6 Stabilization Level III classes, with 12 students per class;
- 4 Advanced Electronic classes, with 12 students per class—(maximum capacity: 6 classes); and
- 3 Electronic Countermeasure (ECM) classes, with 16 students per class—(maximum capacity: 8 classes).

Regarding the need for FBI's training at HDS, the FBI has approximately 1,300 students on the waiting list for its certification and/or recertification classes.

Question. Is there an unmet training need in the bomb tech community and if so, are there sufficient resources in the budget request to meet that need? If not, please detail the unmet need and what additional resources would be required to do so.

Answer. The Stabilization and Electronic Countermeasure (ECM) courses require the use of temporary duty FBI Special Agent Bomb Technician instructors, because the full-time instructor cadre at HDS is stretched to capacity to keep up with the certification and recertification course schedule. Also, HDS can only offer two operational classes at any given time because the school's equipment, vehicles, storage, and training facilities are used to capacity. At this time, there is an eleven-month waiting period for bomb technicians to attend the recertification course, a twelve-month backlog for the certification course, and a 6 to 7-month waiting list for the Advanced Electronics and ECM courses.

As the domestic Improvised Explosive Device (IED) environment evolves, the need for advanced instruction to address sophisticated explosive device designs and attack methods continue to grow. Based on intelligence gathered from around the globe and exploited by the Terrorist Explosive Device Analytical Center (TEDAC), the FBI has developed several advanced courses for bomb technicians with a focus on standardized tactics, techniques, and render safe procedures (RSPs). These advanced courses focus on real, complex threats, such as vehicle-borne, water-borne, and radio-controlled IEDs, suicide bombers, homemade or improvised explosives, weapons of mass destruction, and scenarios that require bomb technicians to operate side-by-side with tactical teams. Advancing FBI instruction at HDS is crucial to effectively meet the needs of the U.S. bomb technician community by teaching standardized operating procedures for bomb squads to defeat these threats. Central certification and curriculum development will also reduce training costs to both public safety bomb squads and the Federal Government. The FBI continues to evaluate resource needs and will work to expand the delivery of this advanced training to public safety bomb technicians within available resource levels.

QUESTIONS SUBMITTED BY SENATOR MARK KIRK

ONLINE SEX TRAFFICKING

Question. Approximately how many FBI agents are designated to sex-trafficking investigations?

Answer. The FBI has more than 400 agents designated to investigations involving the abduction or disappearance of children, online sexual exploitation of children and the commercial sexual exploitation of children, i.e. sex trafficking of children.

Question. How much funding is allocated to these sex-trafficking investigations?

Answer. In fiscal year 2014, the FBI will spend approximately \$107 million on cases involving the abduction or disappearance of children, online sexual exploitation of children and the commercial sexual exploitation of children, i.e. sex trafficking of children. This amount includes both personnel and non-personnel resources.

Question. What Web sites has the FBI identified as the leading Web sites for Internet sex trafficking?

Answer. The FBI has identified more than 100 Web sites that cater to escort and sexual services advertisements. Many of these Web sites may focus on particular cities and/or regions, while others advertise escort and sexual services nationwide. In

addition to these Web sites, social networking Web sites and dating Web sites are also being utilized to facilitate the advertisement of prostitution. For an advertisement offering a commercial sexual service to constitute Federal criminal sex trafficking, the victim induced to commit such conduct must either be under the age of 18 or an adult subjected to force, fraud, and coercion. Since the FBI does not want to promote the Web sites, specific Web site information will not be provided.

Question. What is the FBI's determination of the percentage of ads posted on Backpage.com adult-services section is for prostitutes? What about other Web sites?

Answer. Federal investigative resources are focused on eradicating sex trafficking, which occurs when children engage in commercial sex acts and when adults are compelled to engage in commercial sex acts through the use of force, fraud, or coercion. In the course of investigating sex trafficking, the FBI does review advertisements on Web sites for adult services. Through the course of that review, the FBI has determined a significant number of the advertisements posted on the adult-services section of identified Web sites are specific to prostitution. In addition to advertisements, many of these sites also offer review boards wherein active members can review and rate "prostitutes," discuss popular areas and venues for prostitution, and post intelligence of law enforcement activity and methodology. The volume of prostitution advertisements on social networking and dating Web sites is more difficult to quantify as the advertisements are embedded within user profiles and are not always accessible to law enforcement due to privacy measures implemented by the user. As for the advertisements posted on other Web sites specifically for escorts, the FBI has determined a significant number these advertisements are also specific to prostitution.

SUBCOMMITTEE RECESS

Senator MIKULSKI. The committee recesses and we'll reconvene in the Visitors Center.

[Whereupon, at 10:48 a.m., Thursday, March 27, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2015**

THURSDAY, APRIL 3, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:03 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairwoman) presiding.

Present: Senators Mikulski, Leahy, Landrieu, Shaheen, Merkley, Shelby, Collins, Murkowski, Graham, Kirk, and Boozman.

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

STATEMENT OF HON. ERIC H. HOLDER, JR., ATTORNEY GENERAL

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Chairwoman MIKULSKI. Good morning. The Subcommittee on Commerce, Justice, and Science will come to order. And today, we will take testimony on the budget request from the Department of Justice.

Today, we will be listening to the Attorney General, Eric Holder, testifying in behalf of the Justice Department, and, after that, we hope to hear from the Justice Department's Inspector General, Michael Horowitz, on important oversight issues. This is a subcommittee, not only of making sure we spend the right money in the right way, but also to make sure we have the wonderful advice of an Inspector General.

We want to alert everyone, though, there could be the possibility of votes beginning at 11:30 a.m., so we're going to kind of move it.

This hearing today is one of 60 hearings in 6 weeks, where we're doing very due diligence in taking a look at the request from these agencies and the President's budget.

Today, we really take testimony from, I think, one of the most important agencies in the government constellation, the Department of Justice, who really has a very key job in making sure they keep America safe and—whether it's from Federal law enforcement, Federal prosecution, terrorism, but also the enforcement of other issues, the important enforcement of white collar crime, whether it's antitrust or mortgage fraud, to also civil rights and

hate crimes. It is the Department of Justice; it is not the Department of Anti-Crime. And we're really proud of them.

Mr. Attorney General, we want you to know we really salute the 112,000 employees who work for Justice—the 25,000 Federal agents, the roughly 18,000 prison guards and correctional staff, the 13,000 prosecutors and investigators, and those wonderful support staff, you know the GS-5, -7s, and -9s that really keep the government going. While you and I might get the headlines, they make sure that they keep it all going.

We know we've had an amazing year. The marshals have arrested over 11,000 fugitive sex offenders; the FBI has dismantled 421 criminal enterprises; the DEA, 3400 drug-trafficking organizations out of business and charged; and the U.S. Attorneys with charging over 83,000 defendants in criminal court—all that while facing sequester and slam-down government shutdown.

So, just imagine, now, what you can do with certainty in funding. Under the Murray-Ryan budget, we have canceled sequester for 2014 and for 2015. We have our top line. So, we now want to really take a look at what your requests are.

And my goals for the hearing are three priorities: community security, in terms of State and local, of course national security; oversight and accountability, in terms of spending dollars wisely; and to uphold the rule of law, protect civil liberties and communities.

There is a request in here for \$2.2 billion for State and local government that puts cops on the beat, puts away child abusers, processes rape kits, all of those things at the local level, and we will be getting your views and insights about how those partnerships are working and what, through the funding process, we can actually strengthen them to get better results and better enforcement. We also want to know that that thin blue line in the local community that protects us, like our local police officers, have the equipment that they need.

BUREAU OF PRISONS

We also want to take a look at the issues related to our prisons. We know that you are leading a review on appropriate sentencing and how we can reduce the prison population without increasing risk to our communities. And you've looked at everything from compassionate parole for those prisoners that are now in their 70s and 80s to other creative things. We'd like to hear about that, but we also want to talk about what it is that we need to fund our prisons, and we need to make sure that we keep our prison guards safe.

We met with the family and other correction officers related to Eric Williams, who was one of our prison guards murdered in a Federal penitentiary in Pennsylvania. It was just wrenching to hear what they do. They have ideas that they need for training, what they need to carry in the prisons, how they have to keep themselves safe with increasing violent criminals and increasingly mentally ill prisoners. So, we'd like to hear your thoughts on that.

BOSTON MARATHON BOMBING

About this time last year, we were all gripped with the Boston Marathon. It really showed us how important national security is, that national security isn't in the Crimea or in the Middle East or

in Iraq and Afghanistan, it was in the streets at the Boston Marathon. We had Marylanders injured. One our really beloved preschool teachers lost her leg there, cheering her mother on. They're back in Boston, and she's back on her feet. But, we want to make sure that never happens again. And we'd like your views on what we can do, in terms of national security.

CYBER SECURITY

The other threat is cyber security. Mr. Attorney General, I hope you could join with us in drawing the distinction between cyber security and surveillance. As you know, a lot of people are spooked because of the Snowden revelations. And they talk about 2/15. I will tell you, my constituents are spooked by cyber security. If you go into a Target, and you go into a Michael's, the famous crafts store—some even go into Nieman Marcus—but, most of all, most of America is in places like Target, and the cybersecurity breach has been phenomenal. The cybersecurity breach now at universities, my own University of Maryland, Hopkins, they, themselves, that are really prime-time schools, now are hacking, stealing identities, stealing everything. So, from stealing our trade secrets to the kind of thing that's going on, we need to know, what do we need to do and what are the resources in cyber security?

Every day, we count on the Justice Department to fulfill its mission and to protect our lives and protect our way of life, and to protect our Constitution. We need to hear from you what is the right funding that we need to make sure we do justice to the Justice Department.

I now turn to my Vice Chairman, Senator Shelby, a very strong advocate of—in national security and also in supporting our local law enforcement. And we're particularly appreciative of his efforts in behalf of women and children.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chair.

Welcome to the committee, again, Attorney General Holder.

Today, we will hear from Attorney General Holder about the Department of Justice's 2015 budget request. Michael Horowitz, the Department's Inspector General—as the Chairperson has already said, will testify about his work and the difficulties he has encountered in executing his oversight responsibility. Today, I welcome you both.

FISCAL YEAR 2015 BUDGET

The 2015 budget request for the Department of Justice totals \$27.4 billion. I'm concerned that, while the Department's 2015 budget purports to recognize the multifaceted nature of the Department's work, it fails to truly prioritize anything but the administration's pet projects. Programs such as Smart on Crime, Now is the Time, and nearly 12 new grant programs, I believe take center stage. Meanwhile, law enforcement and national security priorities, the main mission, central mission, of the Department, I believe take a backseat. This approach is evident in the indiscriminate

cuts required of nearly every component within the Department of Justice.

The 2015 budget requires cuts totaling more than \$500 million. These cuts are characterized as miscellaneous program and administrative reductions, and will be identified once funds are appropriated. In short, it is the Department's own version, I believe, of an arbitrary sequester.

Mr. Attorney General, Congress made a conscious decision to return to regular order, in part to put a stop, as you know, to indiscriminate cuts that your budget requires. A budget proposal that uses smoke and mirrors does not provide a stable foundation to safeguard national security, reduce violent crime, prosecute criminals, or support our State and local partners. It calls into question the Department's commitment to these requirements.

I do not support the approach this budget has taken, and I look forward to working with you, Madam Chair, to ensure that Department of Justice is appropriately funded to carry out its central, its important, missions.

INSPECTOR GENERAL

I also want to touch briefly on a topic of concern that the Chairperson has already mentioned and that directly impacts the Inspector General's ability to conduct much-needed oversight of the Department of Justice.

Since arriving in 2012, Mr. Horowitz has worked diligently to investigate a myriad of trouble spots. Throughout the course of these investigations, however, the Inspector General encountered significant roadblocks. Specifically, he has not been provided unfettered access to materials essential to ongoing investigations and audits, unless the Attorney General approves that.

Think about that. This is the Inspector General. You should provide him the material to see what's going on in your Department, good and bad.

I strongly believe that the work of the Inspector General is essential to well-functioning government agency. They are independent and should not be encumbered by individuals in positions of power, even the Attorney General of the United States.

Mr. Attorney General, yesterday the Chair and I sent you a letter on this matter. We expect that you will move swiftly to address our questions and resolve this controversy. But, without an independent Office of Inspector General that can truly carry out its oversight responsibilities, I'm concerned that the honesty and the integrity of the whole Department could be called into question. And that's something none of us want.

Madam Chair, I thank you for your time, and I look forward to hearing more from the Attorney General and also the Inspector General.

Thank you.

Chairwoman MIKULSKI. Senator Collins, did you want to say anything, or do you want to go right to the testimony?

Senator COLLINS. Madam Chair—

Chairwoman MIKULSKI. You're welcome to do what you choose. Senator COLLINS [continuing]. Thank you very much.

First of all, I want to welcome the Attorney General to the subcommittee today which has such great leadership on both sides of the aisle.

I'm going to be directing my questions to you today on several topics. One has to do with our broken asylum-granting system, which the Department of Justice has jurisdiction with the Department of Homeland Security over. Another is the testing of the boundaries of executive power by this administration; in particular, the aggressive position the administration has taken with regard to the President's enforcement discretion. And third, I hope that—if you don't do so in your testimony, I will be asking you for an update on the Department of Justice's activities to bring to justice the attackers in the Benghazi case.

So, thank you, Madam Chair.

Chairwoman MIKULSKI. Mr. Attorney General.

SUMMARY STATEMENT OF ERIC H. HOLDER, JR.

Attorney General HOLDER. Well, good morning, and thank you, Chairwoman Mikulski, Ranking Member Shelby, Senator Collins, Senator Kirk, other distinguished members of the subcommittee. I want to thank you for the opportunity to appear before you today to discuss the President's fiscal year 2015 budget for the Justice Department and to provide an overview of the Department's recent achievements and ongoing priorities.

Now, as we convene this morning, I know that we're all mindful of yesterday's mass shooting at Fort Hood. I am being regularly briefed on the situation, and I have directed that the full resources of the Department of Justice, and, in particular, the FBI, be made available to ensure the security of everyone on that base. We will work with local officials and the Department of Defense to provide assistance to those who need it and to help conduct a full and thorough Federal investigation.

As this investigation unfolds and as we work to determine exactly what happened, and why, my thoughts and prayers will be with all those whose lives have been impacted by this terrible tragedy, and with the entire Fort Hood community, which has displayed such extraordinary strength and resilience since the horrific events of nearly 5 years ago.

As President Obama said yesterday, it is heartbreaking that something like this has happened again. And we owe it to all of our men and women in uniform, and also to their families, to see that justice is done, to ensure that they are safe here at home, and to do everything in our power to prevent these too common tragedies from happening again.

My colleagues and I are firmly committed to doing just that, and we are determined to continue building upon the exceptional work, I think, that the Justice Department employees have performed over the past year. Going forward, your support will enable us to build on the results that my colleagues have obtained, and to perform the vital mission with which we are entrusted.

Many of our accomplishments over the past year are notable, and even historic, but none have been more important than our ongoing work to protect the American people from terrorism and other threats to our national security. Just last week, the Department

achieved a major milestone when we secured the conviction of Sulaiman Abu Ghaith, the son-in-law of Osama bin Laden and a senior member of al-Qaeda, on terrorism-related charges. This verdict has proven that proceedings such as these can safely occur in the city that I am proud to call home, as in other locations across our great Nation. It was appropriate that this defendant, who very publicly rejoiced over the attacks on the World Trade Center, faced trial in the shadow of where those buildings once stood. We never doubted the ability of our Article III court system to administer justice swiftly in this case, as it has in hundreds of other cases involving terrorism defendants. And this outcome vindicates, I believe, the government's approach to securing convictions of senior al-Qaeda leaders. It would be a good thing, I believe, for the country if this case has the result of putting that political debate to rest.

The President's budget request would strengthen our national security work by investing a total of \$4 billion in the Department's cutting-edge counterterrorism and national security programs, including 1.5 million to maintain and operate the FBI's new Terrorism Explosive Device Analytic Center facility in Alabama. The fiscal year budget also would invest in other key priorities, providing \$273 million to bolster the Department's vigorous enforcement of Federal civil rights laws, including \$8 million in new resources. It would also allocate \$1.1 billion to support the administration's work to reduce gun violence. It would enhance the Department's ability to combat heinous crimes, like human- and sex-trafficking, as well. And it would provide \$173 million to support our efforts to strengthen the Federal criminal justice system as a whole through the groundbreaking Smart on Crime initiative that was announced last August.

Now, this initiative comprises a range of targeted commonsense reforms, including modification to the Department's charging policies with regard to mandatory minimum sentences for certain non-violent, low-level drug crimes, along with a renewed focus on evidence-based diversion, rehabilitation, and reentry programs. The fiscal year 2015 budget would sustain investments in the Bureau of Prisons reentry programs, including the Residential Drug Abuse Program, residential reentry centers, and reentry-specific education programs. These and other proven programs will help to make our criminal justice system not only more effective, but also, by freeing up resources for police and prosecutors as well as other vital law enforcement priorities, make our system significantly more efficient. And this, in turn, would enable us to further invest in the outstanding work that's performed every day by dedicated attorneys and support staff in each of the Department's litigating divisions and United States Attorneys' offices.

CIVIL AND CRIMINAL FINES, PENALTIES, AND SETTLEMENT

Thanks to their efforts during the fiscal year ending in 2013, the Justice Department collected a total of more than \$8 billion in civil and criminal fines and penalties. And this represents more than double the approximately \$3 billion in direct appropriations that pay for our 94 U.S. Attorneys' offices and main litigating divisions.

During fiscal year 2012 and fiscal year 2013, the Department collected a combined total of more than \$21 billion, a record amount for a 2-year span, and we've obtained a series of historic resolutions and taken other significant actions to ensure that we're serving as sound stewards of taxpayer dollars and protecting American consumers from fraud and other financial crimes.

Last November, the Justice Department secured a \$13 billion settlement with JPMorgan Chase & Company, the largest settlement with a single entity in the history of the United States, to resolve Federal and State civil claims related to the company's mortgage securitization processes.

As part of our ongoing efforts to hold accountable those whose conduct sowed the seeds of the mortgage crisis, the Department also filed a lawsuit against the ratings firm S&P; and, with a \$1.2 billion agreement that we reached with Toyota just last month, again the largest criminal penalty ever imposed on an automotive company, we're making good on our determination to protect consumers and to address fraud in all of its forms.

PREPARED STATEMENT

I'm very eager to work with this subcommittee and with the entire Congress to build on these and other successes and to secure the timely passage of the President's budget request, which provides a total of \$27.4 billion in discretionary resources for the Department of Justice, including \$25.3 billion for vital Federal programs and \$2.1 billion for State, local, and tribal assistance programs, as well. This level of support will be essential to ensuring that we can continue to protect the American people and take important actions to strengthen our criminal justice system.

I want to thank you once again for this opportunity to discuss this work with you today, and I'd be happy to answer any questions that you might have.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. ERIC H. HOLDER, JR.

Good morning, Chairwoman Mikulski, Vice Chairman Shelby, and other distinguished members of the subcommittee. Thank you for the opportunity to appear before you today to highlight the President's fiscal year 2015 budget for the U.S. Department of Justice—and to discuss the Department's recent achievements and future priorities. I would also like to thank you for your leadership in securing the passage of the Consolidated Appropriations Act for fiscal year 2014, which restores Justice Department funding to pre-sequestration levels—and even adds funding for key priorities.

In February, as a result of the fiscal year 2014 appropriation, I was able to lift the Department-wide hiring freeze that had been in place for over 3 years, and had resulted in the loss of over 4,000 employees. We are now able to fill critical vacancies and resume the normal hiring process for Federal agents, prosecutors, analysts and other staff we need to fulfill our varied missions, including: protecting the American people from terrorism and other national security threats; combating violent crime; eradicating financial fraud; and safeguarding the most vulnerable members of society.

Across the board, I'm extremely proud of the exceptional work that Justice Department employees perform on a daily basis, despite escalating threats and challenges. They are a credit to the Department, to our Nation, and to the American people we are privileged to serve. Like you, I am committed to securing the resources and support the Department of Justice (DOJ) employees need to carry out

their important duties—and to keep advancing the cause of justice that remains our common pursuit.

The resources provided this fiscal year will help us carry out our critical law enforcement responsibilities and enhance public safety. The President's fiscal year 2015 budget request builds on the funds provided in fiscal year 2014 that are vital to thwarting sophisticated adversaries, protecting our citizens from gun violence and other types of crime, and maintaining safe and secure operations throughout the Federal correctional system.

The President's fiscal year 2015 budget requests \$27.4 billion in discretionary resources for the Department, including \$25.3 billion for Federal programs and \$2.1 billion for discretionary State, local, and tribal assistance programs. This represents a 0.4 percent increase over the fiscal year 2014 enacted level and allows the Department to continue its trajectory towards fiscal and operational health. More specifically, the President's fiscal year 2015 budget request:

- Invests in criminal justice reform.* The budget invests \$173 million in my “Smart on Crime” initiative, which is designed to promote reforms to the criminal justice system that will improve public safety, save money, and ensure the fair and effective enforcement of Federal laws.
- Invests in Federal civil rights enforcement.* To help meet the Nation's civil rights challenges, the fiscal year 2015 budget invests a total of \$273 million, including \$8 million in new resources, to support the Department's enforcement of Federal civil rights laws, including laws on human trafficking, hate crimes, disability rights, and many others.
- Maintains critical counterterrorism and counterespionage programs, as well as intelligence gathering and surveillance capabilities.* The budget invests a total of \$4 billion to sustain recent increases that support national security investigations, including an enhancement of \$15 million to fund the costs of the Federal Bureau of Investigation's (FBI) new Terrorist Explosive Device Analytical Center—or TEDAC—at Redstone Arsenal in Alabama.
- Supports the administration's initiative to reduce gun violence.* The budget invests a total of \$1.1 billion in Federal and grant programs in support of the President's “Now is the Time” initiative, which includes \$182 million to sustain investments provided in fiscal year 2014. These resources will help ensure that those who are not eligible to purchase or possess guns are prevented from doing so. In addition, the request delivers grant funding to continue the Comprehensive School Safety Program, to encourage the development of innovative gun safety technology, and to provide training for active shooter situations.
- Enhances efforts to combat and keep pace with increasingly sophisticated and rapidly evolving cyber threats.* Cybercrimes are becoming more common, more sophisticated, and more dangerous. The President's budget invests a total of \$722 million, including \$8 million in enhancements to Federal programs and grants, to address computer intrusions and cybercrimes and defend the security of the Department's critical information networks.
- Substantially improves the ability to provide legal assistance to foreign law enforcement partners.* In order to better assist foreign government partners with investigating and prosecuting criminals, the budget invests an additional \$24 million to reduce the current backlog of Mutual Legal Assistance Treaty requests, to process requests in a matter of weeks, and to cut overall response times in half by the end of 2015.
- Sustains financial fraud law enforcement efforts.* The budget invests a total of \$681 million in the Department's ongoing efforts to investigate and prosecute mortgage fraud and financial schemes that harm the American people and our financial markets.
- Strengthens enforcement of immigration laws and addresses the immigration case backlog.* To help increase efficiency in the immigration courts, the budget requests enhancements of \$23 million in order to add 35 new Immigration Judge Teams and 15 new Board of Immigration Appeals attorneys and to expand the successful Legal Orientation Program as well as a pilot program to implement additional efficiencies in the immigration program overall.
- Maintains safe and secure prison capacity.* The budget provides \$8.5 billion to maintain secure, controlled Federal prison and detention facilities and to continue bringing newly completed or acquired prisons on-line in order to protect public safety by alleviating prison crowding. Further, the budget includes resources to support implementation of the Prison Rape Elimination Act in Federal, State, and local prisons and jails, and to help inmates successfully transition back into their communities.
- Enhances State, local, and tribal law enforcement programs.* In total, the fiscal year 2015 budget requests \$3 billion in mandatory and discretionary funds for

State, local and tribal law enforcement assistance. These funds will allow the Department to continue to support our State, local and tribal partners who fight violent crime, combat violence against women, and support victim assistance programs. The fiscal year 2015 request will bolster the Department's efforts to ensure that Federal grant funding flows to evidence-based purposes and helps to advance knowledge of what works in State and local criminal justice systems.

In addition, the fiscal year 2015 budget proposes additional discretionary investments as part of the Administration's Opportunity, Growth and Security Initiative. This initiative targets investments for State and local assistance grants, such as the Comprehensive School Safety Program and a new youth investment program; resources to speed up the process of bringing online newly completed or acquired prisons; and funding for the investigation and prosecution of the full spectrum of financial fraud.

The fiscal year 2015 budget recognizes the multi-faceted nature of the Department's work and outlines spending priorities for critical mission areas. We must continue to grow both tougher and smarter on crime. This budget builds on the great work being done by the dedicated employees of the Department across the country and around the world to reduce violent crime and reform our criminal justice system.

BECOMING SMARTER ON CRIME

Just over 1 year ago, at my direction, the Justice Department launched a targeted review of the criminal justice system in order to identify reforms that would ensure Federal laws are enforced fairly and efficiently. In 2013, as part of this review, the Department studied all phases of the criminal justice system, including charging, sentencing, incarceration and reentry, to identify the practices that are successful at deterring crime and protecting the public.

Today, a vicious cycle of poverty, criminality, and incarceration traps too many Americans and weakens too many communities. While we will continue to aggressively enforce Federal criminal statutes, we recognize that we cannot arrest and incarcerate our way to becoming a safer nation. To be effective, Federal efforts must also focus on other critical aspects of criminal justice, including prevention and reentry.

With that in mind, the budget requests \$173 million in support of the Department's efforts to promote alternatives to incarceration for people convicted of low-level, non-violent drug offenses, and invests in reentry programs in order to reduce recidivism among formerly incarcerated individuals. Each dollar spent on prevention and reentry at the Federal, State and local levels has the potential to save far more in incarceration costs.

SAFEGUARDING THE MOST VULNERABLE MEMBERS OF SOCIETY

Last month, I had the privilege of attending a celebration commemorating the upcoming 50th anniversary of the Civil Rights Act of 1964 alongside many esteemed jurists, public servants and public safety officials. In the years that followed adoption of this landmark legislation, this struggle—to secure what President Johnson once called the “dignity of man and the destiny of democracy”—would lead to the passage of the Voting Rights Act of 1965 and a range of other reforms, both large and small. Together, these changes altered the course of the 20th century. Moreover, they led the Department of Justice to take an active role in defending the civil rights to which everyone in this country is entitled—work that remains among our top priorities today.

Since 2009, the Civil Rights Division has filed more criminal civil rights cases than at any other time in our history, including record numbers of police misconduct and human trafficking cases. Under the leadership of our Civil Rights Division and our Community Relations Service (CRS), we are using important tools like the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act to prevent and respond to hate crimes on behalf of those who are victimized because of who they are, what they look like, or who they love. Under the leadership of the Civil Division, we are working diligently with our Federal agency partners to implement the Supreme Court's ruling in *United States v. Windsor* to make real the promise of equal protection under the law for *all* American families—and to extend applicable Federal benefits to all married same-sex couples. And we are vigorously enforcing Federal voting protections to help ensure that every eligible American has access to the franchise.

The fiscal year 2015 budget will support the Department's appropriately aggressive enforcement of Federal civil rights laws in all of these areas, in addition to fair housing, fair lending, and disability rights, among many others. In total, the request

seeks \$273 million to help meet the Nation's civil rights challenges, including an additional \$8 million in program increases for the Civil Rights Division and CRS.

PROTECTING THE AMERICAN PEOPLE FROM TERRORISM AND OTHER NATIONAL SECURITY THREATS

As I have said many times before, the Department's top priority must always be the protection of the American people from terrorism and other national security threats. The fiscal year 2015 budget provides a total of \$4 billion in direct funding to maintain critical counterterrorism, counterespionage, intelligence collection, and national security oversight programs. In addition, the budget sustains recent increases that support national security investigations. The fiscal year 2015 budget also requests a \$15 million program increase to fund the cost of operations and maintenance of the FBI's new TEDAC facility at Redstone Arsenal in Huntsville, Alabama, which will become operational in late 2014. TEDAC provides direct support to U.S. Government efforts to prevent and mitigate improvised explosive device attacks both in the United States and abroad, and has already provided critical assistance to domestic and international cases, including last year's Boston Marathon bombing.

The FBI uses intelligence and investigations to combat national security threats and protect and defend the United States against terrorism and foreign intelligence threats. In fiscal year 2013, the FBI dedicated approximately 4,500 agents to investigating more than 18,000 national security cases.

The National Security Division (NSD) is responsible for overseeing terrorism investigations and prosecutions; handling counterespionage cases and matters; and assisting the Attorney General and other senior department and executive branch officials in ensuring that the national security-related investigations and activities of the United States are consistent with the Nation's laws and regulations, including those that protect privacy interests and civil liberties. In coordination with the FBI, the Intelligence Community, and the U.S. Attorneys' Offices, NSD's primary operational functions are to prevent acts of terrorism and espionage inside the United States and to facilitate the collection of information regarding the activities of foreign powers and their agents.

The Department has had many noteworthy successes on the national security front. We have continued to: strengthen key intelligence-gathering capabilities; refine our ability to identify and disrupt potential terrorist plots; and ensure that those charged with terrorism-related offenses are held accountable to the fullest extent of the law. From the recently-unsealed guilty plea of Ahmed Abdulkadir Warsame, a former senior al-Shabaab commander and emissary to al-Qaeda in the Arabian Peninsula, on charges of terrorism, to the extraordinary and highly-coordinated FBI-led response to last year's Boston Marathon bombing, the Department and its law enforcement allies have relentlessly worked to secure the American homeland and bring those who would harm our people to justice. In fact, just last week, the Department achieved a major milestone when we secured the conviction of Sulaiman Abu Ghayth, the son-in-law of Usama bin Laden and a senior member of al Qaeda, on terrorism-related charges.

This verdict has proven that proceedings such as these can safely occur in the city I am proud to call home, as in other locations across our great Nation. It was appropriate that this defendant, who publicly rejoiced over the attacks on the World Trade Center, faced trial in the shadow of where those buildings once stood. We never doubted the ability of our Article III court system to administer justice swiftly in this case, as it has in hundreds of other cases involving terrorism defendants—and this outcome vindicates the Government's approach to securing convictions of senior al Qaeda leaders. It would be a good thing for the country if this case has the result of putting that political debate to rest.

In addition to its national security work, the Department has successfully executed ground-breaking counterintelligence operations to safeguard sensitive U.S. military and strategic technologies and keep them from falling into the wrong hands. In February, Robert Patrick Hoffman II, a cryptologic technician with the Navy, was sentenced to 30 years in prison for attempting to commit espionage on behalf of the Russian Federation against the United States. Working aboard or in conjunction with U.S. submarines for much of his naval career, Hoffman held security clearances and regularly received access to classified national defense information about U.S. submarines and their capabilities, and about adversaries, specific missions, and U.S. military and naval intelligence. Hoffman supplied to undercover FBI agents, among other things, national defense information classified at the levels of Secret and Top Secret/Sensitive Compartmented Information. By attempting to

hand over some of America's most closely held military secrets, Hoffman put U.S. servicemembers and this country at risk.

National security threats are constantly evolving, requiring significant resources to adapt to those threats. However, as President Obama noted in a speech at the Justice Department earlier this year, it is imperative that we continue working to protect our national security while upholding the civil liberties we all hold dear. In January, we and our partners in the Intelligence Community took a significant step toward fulfilling the President's commitment to greater transparency by permitting communications providers to disclose more information than ever before about the number of national security orders and requests they receive and the number of customer accounts targeted under those orders and requests. And as we move forward with the timely implementation of other reforms, my colleagues and I remain committed to working closely with Congress to implement the President's transparency directives and determine the best path forward for these programs.

IMPROVING OUR ABILITY TO IMPLEMENT AND ENFORCE GUN SAFETY MEASURES

Gun violence has touched every State and locality in America, and addressing this epidemic remains a high priority for the Department. In 2013, following the Newtown, Connecticut, school shootings, the administration proposed a range of legislative remedies to address mass shootings and reduce gun violence. The Department is working to implement a number of these actions and requests a total of \$1.1 billion in fiscal year 2015 to address violent gun crimes.

Of the total, \$1 billion in Federal law enforcement resources will allow the Department to ensure that those who are not eligible to purchase or possess guns are prevented from doing so. Within this amount, \$182 million is included for the President's "Now is the Time" initiative to support additional background checks, allow for continued focus on inspections of federally-licensed firearms dealers, improve tracing and ballistics analysis, and keep guns out of the hands of dangerous criminals and other prohibited persons. The Department also has been working to strengthen the national background check system. For example, in January 2014, the Department proposed a rule to clarify the definition of persons prohibited for mental health reasons from receiving, possessing, shipping, or transporting firearms. Further, an additional \$13 million is provided to the FBI to sustain the substantial investment made in the National Instant Criminal Background Check System (NICS) in fiscal year 2014.

The Department is also taking a hard look at our Federal laws and our enforcement priorities to ensure that we are doing everything possible at the Federal level to keep firearms away from drug traffickers and other criminals. To support the enforcement of Federal laws, the Department is requesting an additional \$22 million for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which will allow ATF to sustain the firearms enforcement and inspection efforts funded in fiscal year 2014.

The budget also requests \$147 million to help State and local governments continue to implement the administration's proposals for increasing firearms safety and supporting programs that help keep communities safe from mass casualty violence. In addition to the FBI's role with the Federal side of NICS, the Department is working to strengthen national background checks by addressing gaps in the State records currently available in NICS. Incomplete or insufficient records significantly hinder the ability of NICS to quickly confirm whether a prospective purchaser is prohibited from acquiring a firearm. In fiscal year 2015, the Department requests a total of \$55 million in grant funding to further assist States in making more records available in NICS and enhancing the National Criminal History Improvement Program.

Beyond keeping guns out of the wrong hands, we also want to help those on the ground prevent and mitigate violent situations when they do occur. To this end, the Office of Justice Programs (OJP), with the support of the FBI, will be providing a specialized training course for active shooter situations for law enforcement officers, first responders, and school officials. The Department is requesting a total of \$15 million to support this training and other officer safety initiatives. In addition, the Department is requesting \$75 million in grant funding for the Comprehensive School Safety Program, which was funded for the first time in fiscal year 2014. Finally, the budget includes \$2 million for OJP to support the administration's challenge to the private sector to develop innovative and cost-effective gun safety technology. The funding for this initiative will provide prizes for those technologies that are proven to be reliable and effective.

INVESTIGATING CYBERCRIME AND PROTECTING OUR NATION'S CRITICAL NETWORKS

Like other national security threats, cyber threats are constantly evolving and require a coordinated and comprehensive plan for protection and response. The Department has a unique and critical role in cyber security that emphasizes domestic mitigation of threat actors and involves countering the threat by investigating and prosecuting intrusion cases, gathering intelligence in support of nation state attribution, and providing legal and policy support to other agencies. The Department is also responsible for establishing effective internal network defense and serving as a model for other departments and agencies.

The fiscal year 2015 budget provides a total of \$722 million for cyber enforcement and maintains recent increases for NSD's prosecutorial efforts and the FBI's Next Generation Cyber Initiative, which has enhanced capabilities to combat cyber threats from individuals, organized groups and rogue actors. The request also includes an increase of \$3 million for the Criminal Division to strengthen its investigative and prosecutorial capabilities, and \$5 million to provide grants related to cybercrime and intellectual property enforcement.

The Department is committed to carrying out its cyber security role, emphasizing intelligence and information sharing as well as the preservation of privacy, data confidentiality, and civil liberties. The administration is working to improve Government mechanisms for providing timely cyber threat information to the private sector so it can better protect and defend itself against cyber threats. Pursuant to an Executive Order on *Improving Critical Infrastructure Cybersecurity*, each Federal department and agency is also required to develop and implement privacy and civil liberties safeguards in concert with its cyber security activities.

And although we work tirelessly to bring cyber criminals to justice, we need additional tools to strengthen the Justice Department's ability to combat crime and ensure individual privacy. I've recently called on Congress to create a strong national standard for quickly alerting consumers whose personal identifying information may be compromised. This would empower the American people to protect themselves if they are at risk of identity theft. It would enable law enforcement to better investigate these crimes. And it would hold compromised entities accountable when they fail to keep sensitive information safe. I hope I can count on your support.

IMPROVING COLLABORATION WITH FOREIGN LAW ENFORCEMENT PARTNERS

Criminal activity transcends national boundaries, requiring the United States and its foreign partners to cooperate in the provision of evidence and the extradition of persons. Mutual Legal Assistance Treaty (MLAT) requests are the formal way in which countries request assistance in obtaining evidence located in a foreign country for criminal investigations and proceedings located in another country. However, delays and difficulties in obtaining evidence, especially Internet records, through the MLAT process are increasingly becoming a source of frustration for many of our foreign partners.

Continued delays in producing this type of information to our foreign counterparts could reduce their compliance with U.S.-initiated MLAT requests and their cooperation with U.S. law enforcement agencies, thus hampering our ability to investigate crime and prosecute criminals. In his January speech on the review of signals intelligence, the President stated that he "will devote the resources to centralize and improve the process we use to handle foreign requests for legal assistance, keeping our high standards for privacy while helping foreign partners fight crime and terrorism." Pursuant to the President's commitment, the Department is leading an interagency effort to update, improve, and accelerate the handling of requests from foreign governments for evidence requested pursuant to MLATs.

Over the past decade, the number of requests for assistance from foreign authorities handled by the Criminal Division's Office of International Affairs has increased nearly 60 percent, and the number of requests for computer records has increased 10-fold. While the workload has increased dramatically, our ability to handle them has not kept pace. The Department's fiscal year 2015 budget requests a total of \$44 million, including an increase of \$24 million for the Criminal Division, the FBI and U.S. Attorneys, for the Department to significantly expand the number of personnel dedicated to reviewing and executing MLAT requests, and for technological enhancements to improve the way requests are analyzed, categorized, and prioritized. With these additional resources, the Department will implement a robust centralized processing system, reduce backlog, cut its response time by half by the end of 2015, and respond to legally sufficient requests in a matter of weeks. Additionally, the resources will support training efforts for foreign partners to ensure they can meet U.S. evidentiary standards, which will enable the Department to respond to their requests more quickly.

This MLAT reform effort involves collaboration among the Departments of Justice, State, and Commerce. Funds identified in the fiscal year 2015 President's budget for improvements to the MLAT program will be coordinated across these departments and agencies as well as the commercial sector.

PROSECUTING FINANCIAL AND MORTGAGE FRAUD

Protecting consumers, investors, and our financial markets from fraud is one of the Department's top priorities. The budget maintains support to investigate and prosecute financial and mortgage fraud, providing a total of \$681 million for financial fraud enforcement. It also continues efforts to strengthen the Department's ability to pursue large-scale financial fraud.

Fraud harms the American people and has the potential to undermine our financial markets, and fraudulent misconduct may have contributed to the worst economic crisis in recent history. With its criminal and civil enforcement tools, the Department plays a crucial role in achieving justice for those who have been victimized. Fraud cases are complex matters that can take years to investigate and prosecute. Last year, as part of our ongoing effort to hold accountable those whose conduct sowed the seeds of the mortgage crisis, the Department filed lawsuits against Bank of America and the ratings firm Standard & Poor's. Since 2009, we have filed criminal charges against more than 46,000 white-collar defendants, more than half of whom are financial fraud defendants. And in November, the Department reached a \$13 billion settlement with JPMorgan Chase & Co.—the largest settlement with any single entity in American history—to resolve Federal and State civil claims related to the company's mortgage securitization process. These results demonstrate that no firm, no matter how profitable, is above the law—and the passage of time is no shield from accountability. They also reinforce our commitment to integrity and equal justice in every case, in every circumstance, and in every community.

ENFORCING IMMIGRATION LAWS AND ADDRESSING THE IMMIGRATION CASE BACKLOG

The Department has substantial responsibilities with respect to immigration, including enforcement, detention, judicial functions, administrative hearings, and litigation. The Department's Executive Office for Immigration Review (EOIR) maintains a nationwide presence, overseeing the immigration court and appeals processes, receiving cases directly from Department of Homeland Security enforcement personnel. EOIR's immigration court caseload is increasing to unsustainable levels. Between fiscal year 2009 and fiscal year 2013, the caseload pending adjudication grew by 56 percent—from 229,000 to 358,000.

The fiscal year 2015 budget includes \$23 million in new resources to support and advance EOIR's mission. Of this amount, \$17 million is requested for EOIR to support 35 additional Immigration Judge Teams and 15 additional Board of Immigration Appeals attorneys. An additional \$3 million is included to expand EOIR's Legal Orientation Program, which improves immigration court proceedings for those who are detained by increasing their awareness of their rights and the overall process. Another \$3 million is requested to allow EOIR to continue the development and expansion of a pilot program that provides counsel to vulnerable populations, such as unaccompanied alien children, for which funding was provided in fiscal year 2014.

MAINTAINING SAFE AND SECURE PRISON AND DETENTION FACILITIES

The Department continues to prioritize the maintenance of secure, controlled prison and detention facilities, as well as investment in programs that can reduce recidivism. Federal prisons are operating over 30 percent above rated capacity. Spending on Federal prisons consumes a quarter of the Department's budget—an unsustainable figure that is nevertheless projected to continue to increase.

As part of the "Smart on Crime" approach I announced last August, I directed a significant change to the Department's charging policies to ensure that people accused of certain low-level, non-violent Federal drug crimes receive sentences appropriate to their individual conduct—and that stringent mandatory minimum sentences are reserved for the most serious crimes. Alongside other important reforms, this change will make our criminal justice system not only fairer, but also more efficient, reducing the burden on our overcrowded prison system and freeing up resources for police and prosecutors and other vital law enforcement priorities.

The fiscal year 2015 budget includes funding to support this initiative, providing \$8.5 billion for prisons and detention, including \$6.9 billion for the Bureau of Prisons (BOP) and \$1.6 billion for Federal Prisoner Detention under the U.S. Marshals Service. Included in the total is \$29 million to sustain the investments made in fiscal year 2014 for BOP's reentry programs, including the Residential Drug Abuse Program, Residential Reentry Centers, and reentry-specific education programs. In

all, the budget requests a total of \$660 million for BOP's reentry-related activities. These resources provide critical opportunities for inmates to successfully transition back into their communities. Further, \$32 million in program increases are requested for Federal detention to pay for increases in the average daily detainee population under the U.S. Marshals Service.

INVESTING IN STATE, LOCAL AND TRIBAL ASSISTANCE PROGRAMS THAT WORK

The Department continues to support its partnerships with State, local, and tribal law enforcement. The fiscal year 2015 budget maintains these commitments without cutting the Department's Federal operational role. Simultaneously, the budget identifies efficiencies to help ensure that Federal resources are being targeted to the most effective grant programs. The fiscal year 2015 request for State, local, and tribal law enforcement assistance is \$3 billion, including \$2.1 billion for discretionary grants and \$891 million for mandatory grants.

The Department is requesting \$1.5 billion for the Office of Justice Programs' discretionary grants. The request increases funding for an evaluation clearinghouse, an indigent defense initiative, and evidence-based competitive programs. This includes funding to establish the Byrne Incentive Grants and Juvenile Justice Realignment Incentive grants, which will provide supplementary awards to States and localities using formula grant funds for evidence-based purposes. The budget also requests funding to address school safety and gun violence with resources to improve criminal history records information and for the Comprehensive School Safety Program, which initially received funding in fiscal year 2014. In addition, the budget requests \$33 million to support the Department's Access to Justice Initiative efforts, including to assess and improve the quality of indigent defense services in the United States. Finally, the request includes \$35 million for a new grant for communities to develop plans and identify the most critical needs to address sexual assault prevention, investigation, prosecution and services, including addressing untested sexual assault evidence kits at law enforcement agencies or backlogged crime labs.

The fiscal year 2015 budget includes a total of \$423 million for the Office on Violence Against Women, and continues the administration's strong commitment to providing Federal leadership in developing the Nation's capacity to combat sexual assault and violence against women. The request includes an increase of \$9 million for Legal Assistance to Victims Programs, Campus Violence, Grants to Support Families in the Justice System, and the Transitional Housing program. These programs fund proven and innovative interventions to save lives, hold abusers accountable, and rebuild families and communities. As a result of prior investments in this area, civil and criminal justice systems are more responsive to victims, and crimes of violence committed against women have declined in recent years. Even so, reducing such violence and meeting the needs of the almost 1.3 million women victimized annually by rape and sexual assault, and the nearly seven million victims of intimate partner violence each year, remains a critical priority.

Finally, the request includes \$274 million for Community Oriented Policing Services (COPS), which supports a \$71 million increase for COPS Hiring and Tribal Law Enforcement programs. These resources will fund the hiring or retention of approximately 1,300 police officers and sheriffs' deputies across the United States, thereby supporting the efforts of State, local and tribal law enforcement agencies in meeting the challenge of keeping their communities safe.

CONCLUSION

Chairwoman Mikulski, Vice Chairman Shelby, and members of the subcommittee, I want to thank you for this opportunity to share the significant accomplishments of the Department over the past year, to highlight our ongoing priorities, and to discuss how the funding proposed in the fiscal year 2015 President's budget will help make the criminal justice system more effective and efficient.

The Department recognizes the need for fiscal restraint, and we have focused our resources on priority initiatives. As evidenced by our national security and law enforcement achievements, and our continued ability to demonstrate a significant return on investment, we have proven our ability to target and respond to the Nation's highest priorities efficiently and effectively. I look forward to working with this subcommittee and with the entire Congress to build on these successes. And I would be happy to answer any questions you may have.

Chairwoman MIKULSKI. Thank you very much, Mr. Attorney General.

We're going to follow a 5-minute time limit and try to get to as many people as we can. And if there's a chance, we will do a second round.

FEDERAL PRISONS

So, let me get right to my question. Mr. Attorney General, one of the biggest areas, in terms of the Justice Department, is the funding of Federal prisons. And my question to you is—two—and we're concerned about two things—one, the adequacy of the funding; second, the protection of prison guards, looking back to that terrible death. And, number three, what is your plan? Because there are now 18,000 prison guards, doing a great job. We're very proud of our guards in the Cumberland facility—and the stress that they're under every day. But, you've got initiatives here. And now, the prison guard population is one-third of the Justice Department.

So, we've got to keep the bad people off the street, but are we just loading up our Federal prisons, and are there other ways where we protect America? It's almost impossible to keep up with this prison population demand. Could you give us your views on the resources needed and the policy directions you see going in?

Attorney General HOLDER. Well, I agree with you, Madam Chairwoman. We have to focus on looking at the intake, how many people we are bringing into our Federal prison system, and make sure that only those people who should be charged with Federal crimes are actually brought into the system. And so, that's one of the ways in which we can, I think, do a better job.

The safety of the people who work at the Federal Bureau of Prisons, the people who are there in our system on a day-to-day basis, is what we must keep uppermost in our minds. Our budget request includes a total of \$6.8 billion to maintain the enhancements provided in the 2014 budget and to support mandatory prison operations. And one of the things that we want to do, as well, is to prioritize the filling of staff positions so that we have adequate numbers of people in our prisons. That will not only mean that people are treated fairly, humanely in the system, it also keeps our employees safe. We have a renewed and good relationship with the union that represents our prison officers. And I think that, through the combination of the work that Director Samuels is doing, with the help of this committee, I think that we can keep our Bureau of Prisons adequately funded, and keep the people who work there safe.

Chairwoman MIKULSKI. Well, I met with prison—well, of course, I've been up to the Cumberland prison, but also with prison guards that were mates of—teammates, if you will, of Officer Williams, who died in Pennsylvania. They had—they, through the union, really had very specific things that they felt they could do to—that they needed to do to protect themselves. And I would encourage you to have ongoing and regular meetings with them, because it's almost like—it's not labor management negotiation, it's safety conversation on protecting them so they can protect us.

HEROIN CRISIS

In my time, I'm going to go to another question, and this goes to the heroin crisis. The heroin crisis is sweeping America. I'm now hearing it in my own State of Maryland, from county executives, cops on the beat, and so on. Heroin is selling in Baltimore today for \$6 a bag. You know, cheaper than buying a bag of kale at a gourmet grocery store kind of thing. The Governor of Vermont made it the focus of the State of the Union. Senator Leahy has spoken. Could you share with us, one, your view on this, and what are the resources needed at the Department of Justice level and how you would work with State and local law enforcement on dealing with this, really, new epidemic that is both criminal and public health?

Attorney General HOLDER. Well, I first started to hear about the resurgence of the use of heroin about 3 years or so ago as I was going around the country to various U.S. Attorneys' offices, and was struck by the fact that I was hearing about heroin. This was something that I had consigned, in my own mind, to a problem that existed in the 1960s. But, there is no question that over the course of these last few years this has become a national problem. It's not a regional problem, it's not a State problem; this is something that is national in significance.

What we need to do is have a balanced approach to dealing with this issue. We need to have a strong enforcement component to it. Our Drug Enforcement Administration takes the lead in that regard. We've recovered record amounts of heroin coming from the Mexican cartels into the United States. But now, this, I think, is important—we need to focus on the public health component as well, and work with our partners at HHS and at CDC, to come up with ways in which we can educate people about the issues that surround heroin use, and also the connected problem of prescription drug abuse, the use of opioids, and how that leads to the use of heroin.

This is all part of a problem that will require, I think, more than simply the Justice Department to really get at it, though I think we have to be in the lead, given our enforcement responsibilities that we take very seriously.

Chairwoman MIKULSKI. My—thank you very much, Mr. Attorney General—my time is up. I'm going to turn to Vice Chairman Shelby.

But, I think we cannot underestimate that this heroin matter is a new epidemic. And if we were hit by an infectious disease or a new kind of flu, we'd have Fauci, from NIH, and Francis Collins, and Sebelius on the edge of her chair, and Arne Duncan worrying about children in school needing vaccinations. I think we've got to go to the edge of our chair here.

This is prescription drugs, this is prescription drug addiction that's then leading to people buying heroin because it's easier to get. We've got suburban people driving into Baltimore looking into heroin markets that were featured in some of those awful movies about us. I mean, we are really concerned about what this is, and it's—and I think, if we marshal the resources of the Federal Government, working with the American Medical Association, doctors

in the community, et cetera, we can deal with this. This is not only crime, it is public health.

And can I count on you to take the lead in this?

Attorney General HOLDER. Yes, I will. And I will engage with other members of the Cabinet. But, beyond that, to go beyond the Federal Government to try to enlist others who I think have an interest, and should have an interest, in this—as you’ve indicated, the American Medical Association and others—so that we can really get at this problem in a balanced way. This is simply not an enforcement problem, this is something we have to deal with as a public health issue as well.

Chairwoman MIKULSKI. Right.

Senator Shelby.

Senator SHELBY. Thank you.

DRUG-RELATED CRIME

I just want to pick up on the Chairwoman’s area, there. What percent of the people in Federal prison, roughly—and you might want to furnish the exact number, if you don’t have it offhand—for the record—are in prison but related to drug abuse, drug use, drug sales, or connected to drugs?

Attorney General HOLDER. Roughly 50 percent.

Senator SHELBY. Fifty percent.

Attorney General HOLDER. Yes.

Senator SHELBY. And in the State, I believe it’s higher than that.

Attorney General HOLDER. I think that’s correct. In most States, I think that the number is probably higher.

Senator SHELBY. What is the rate of—not just drug related—what’s the rate of recidivism, repeat offenders, in the prison—that go into the prison system and go back, you know, after a while?

Attorney General HOLDER. Again, that’ll vary from State to State. I think the Federal rate is—

Senator SHELBY. I’m speaking of the Federal. The Federal.

Attorney General HOLDER. Okay. Federal rate is roughly, I think, around 35–40 percent.

Senator SHELBY. About a third, more or less—

Attorney General HOLDER. Right. I think that’s about right.

Senator SHELBY [continuing]. Of the people who go to prison come back.

Attorney General HOLDER. Right.

Senator SHELBY. So, basically, our prison systems, State and Federal, are challenged, to say the least, are they not, on rehabilitating—

Attorney General HOLDER. Yes.

Senator SHELBY [continuing]. People, getting them back in society?

Attorney General HOLDER. Absolutely.

Senator SHELBY. What percent of the Federal prison—of people in Federal prison are there connected in some way to violent crime, the people that we need to get off the streets, period?

Attorney General HOLDER. I don’t know—

Senator SHELBY. Can you furnish that for the record?

Attorney General HOLDER. Yes, we can certainly furnish that for the record—

Senator SHELBY. Do you have—

Attorney General HOLDER [continuing]. We have drug offenses, about 50 percent; weapons, explosives, arson, about 5.4 percent. So—

Senator SHELBY. But, violent-related.

Attorney General HOLDER. Yes.

Senator SHELBY. People that you wouldn't want in your neighborhood or your school or around your children—

Attorney General HOLDER. Yes.

Senator SHELBY [continuing]. You know, period.

Attorney General HOLDER. I can provide you with—

Senator SHELBY. Okay.

Attorney General HOLDER [continuing]. A more precise number, Senator.

[The information follows:]

Question. What percentage of the Federal prison population is connected in some way to violent crime?

Answer. Of the sentenced inmates in BOP custody, one third (33.8 percent) are serving time for a violent offense, defined to include homicide, robbery, aggravated assault, sex offenses, weapons and explosives (68,486 out of 202,397). Half (49.5 percent) have a previous conviction for a violent offense (100,142 out of 202,397). Data as of August 30, 2014.

Senator SHELBY. Do you believe that a lot of our prisons are overcrowded, State and Federal?

FEDERAL PRISONS

Attorney General HOLDER. Yes. If you look at the Federal prison system, we don't have enough beds for the people, and especially when you look at those people who we consider the most significant offenders. It's one of the reasons why we try to bring online more of our prisons.

Senator SHELBY. Do you believe it's the—when you make priorities, as a prosecutor, that you should look at violent crime and get people off the street, get them out of doing harm to other people in institutions first?

Attorney General HOLDER. Sure. There are a range of things that we have to—

Senator SHELBY. Absolutely.

Attorney General HOLDER [continuing]. Do in the Federal system. National security, violent crime, drug offenses. We have a range of things that we have to do, working with our State and local partners, as well. They do the vast majority of the prosecuting when it comes to violent crime.

Senator SHELBY. I know it's been said that the Department, led by you, is trying to figure ways out to lessen the impact of some tough sentencing, which is statutory, I think. So, a lot of that—a lot of the sentencing by Federal courts over—on drugs and other things, I believe that's according to statute. Is that right, Mr. Attorney General?

SENTENCING REFORM

Attorney General HOLDER. There are certain mandatory minimum sentences that exist with regard to how we charge certain crimes. We have discretion as to—

Senator SHELBY. I'm talking about after they're sentenced, they're sentenced on—based on a statute, are they not?

Attorney General HOLDER. There are guidelines that are advisory now, but they're no longer mandatory.

Senator SHELBY. Well, once a judge sentences a prisoner for X years after going through a court or a plea, do you have the power, as the Attorney General, to change that sentence?

Attorney General HOLDER. I have limited amounts of power.

Senator SHELBY. Like what? Explain.

Attorney General HOLDER. With regard to people, for instance, as the Chair was saying, people who I can release, or the director of Bureau of Prisons can release on the basis of compassionate release, somebody who is 70–80 years old, who is no longer a threat to society. I have that capacity. But, generally, the Attorney General—

Senator SHELBY. It's statutory, is it not?

Attorney General HOLDER. Yes. Statutory and regulatory. But, generally, the Attorney General does not have the ability to reduce sentences. That is something the President can do.

Senator SHELBY. And if there's any change in the laws on sentencing, it came from Congress—it had come from Congress to modify, repeal, or enact something to supersede it, is that correct?

Attorney General HOLDER. Yes. And that's why we are supporting the efforts of Senator Lee, Senator Leahy, and Senator—

Senator SHELBY. Okay.

Attorney General HOLDER [continuing]. Durbin, to try to make changes to our Federal system.

ROLE OF INSPECTOR GENERAL

Senator SHELBY. I just have a few seconds left, but this is important, I think. A lot of us—I raised it in my opening statement—we're concerned about the issues raised dealing with the Inspector General. I think Congress has been clear, as has this committee, that the Inspector General must have unfettered access to any and all documents necessary to carry out his duties. Do you disagree with that?

Attorney General HOLDER. I would say that the Inspector General should have access to those materials necessary to do the investigations that he does, and consistent with the laws that govern some of the material that he might want access to.

Senator SHELBY. Well, it's all consistent with the law, but—

Attorney General HOLDER. Well, the law is written in such a way that, with regard to certain requests that are made, the Attorney General or the Deputy Attorney General has to make a determination that it can be appropriately shared.

But, one thing I would point out. There has never been an instance, as long as I have been Attorney General, that the Inspector General has asked for materials that I have said he could not have. That has just not happened.

Senator SHELBY. It hasn't happened.

Attorney General HOLDER. Has not happened.

Senator SHELBY. Do you believe that the Inspector General should have to seek your approval to access grand jury documents

relevant to ongoing investigations, something that he's charged, statutorily, to investigate and oversee?

Attorney General HOLDER. I think, as the law exists now with regard to grand jury material, wiretap information, there is an approval process that I think is an appropriate one to go through. But, as I said, there's never been an instance where, with regard to a request made by an Inspector General, I or the Deputy Attorney General have not said, "You can't have access to that material."

Senator SHELBY. Have you, or will you, direct the Department of Justice that you oversee to grant the Inspector General unfettered access to relevant documents to carry out his investigations within the Department, even though it might be detrimental to somebody in the Department of Justice, including yourself?

Attorney General HOLDER. Yes. I mean, the question of whether or not this material is turned over or the Inspector General has access to it is not a function of who is under investigation or what harm is going to happen to the Department. It is really a function of making sure that we are following the—

Senator SHELBY. But, what if—

Attorney General HOLDER [continuing]. Laws that exist.

Senator SHELBY [continuing]. He was investigating somebody high up in the Justice Department, and he had reason to do this, and he needed documents. Would you give him access to those documents? Would you cause him trouble?

Attorney General HOLDER. They'd have access to the documents, as they have in the past.

Senator SHELBY. And you're not going to block the Inspector General from doing his work.

Attorney General HOLDER. No. There is no tension between making sure the Inspector General has the documents that he or she needs and also making sure that the laws that govern the release of those materials are followed. And we have done so in the past.

Senator SHELBY. Well, if a head of the Department, even the Justice Department, like you or, say, Secretary of Energy or Secretary of State, or whatever, if you have an Inspector General there to do oversight and uncover wrongdoing, if they could say, "You can't go there," it would impede their investigation, would it not?

Attorney General HOLDER. Yes, but the Attorney General has a unique responsibility, in that I am the possessor of, for instance, grand jury material, wiretap information that the Secretary of State or Secretary of Energy would not have access to, and so, the need for the statutory requirements that we have to go through at the Justice Department are different than what would exist in other executive-branch agencies.

Senator SHELBY. But, the Inspector General at the Department of Justice couldn't do his job unless they had unfettered access to stuff he was seeking. You seem to be stalling on giving him access to things in the Justice Department. I don't understand that.

Attorney General HOLDER. Well, you'll have the ability to talk to the Inspector General. I think he'll echo—

Senator SHELBY. Sure.

Attorney General HOLDER [continuing]. What I've just said, which is that there has never been an instance where material has been sought that has not been granted to them.

There was a question that was actually raised by Mr. Horowitz's predecessor about whether or not there was a legal basis for the position that we were taking. What we offered to do was to send it to the Office of Legal Counsel for a determination as to whether the view that the Attorney General or the Deputy Attorney General was taking was correct. The decision was made by the Inspector General not to have that OLC opinion done. We have copies of the letter, that I will be more than glad to make available to the committee, that shows that what we have done is consistent with the law and also consistent with the important responsibilities that the Inspector General has.

[The information follows:]

SUMMARY OF THE DEPARTMENT OF JUSTICE OFFICE OF THE INSPECTOR GENERAL'S POSITION REGARDING ACCESS TO DOCUMENTS AND MATERIALS GATHERED BY THE FEDERAL BUREAU OF INVESTIGATION

Introduction

In November 2009, the Office of the Inspector General (OIG) initiated a review of the Department's use of the material witness statute, 18 U.S.C. §3144. Pursuant to our responsibilities under Section 1001 of the Patriot Act, a significant part of our review is to assess whether Department officials violated the civil rights and civil liberties of individuals detained as material witnesses in national security cases in the wake of the September 11 terrorist attacks. In addition, the review will provide an overview of the types and trends of the Department's uses of the statute over time; assess the Department's controls over the use of material witness warrants; and address issues such as the length and costs of detention, conditions of confinement, access to counsel, and the benefit to the Department's enforcement of criminal law derived from the use of the statute.

In the course of our investigation, we learned that most of the material witnesses in the investigations related to the September 11 attacks were detained for testimony before a grand jury. At our request, between February and September 2010 the Department of Justice National Security Division and three U.S. Attorneys' offices (Southern District of New York (SDNY), Northern District of Illinois (NDIL), Eastern District of Virginia (EDVA)) provided us with grand jury information concerning material witnesses pursuant to Fed. R. Crim. P. 6(e)(3)(D), which permits disclosure of grand jury matters involving foreign intelligence information to any Federal law enforcement official to assist in the performance of that official's duties. We also sought a wide range of materials from other Department components, including the U.S. Marshals Service, the Federal Bureau of Prisons, and the Federal Bureau of Investigation (FBI). All of the Department's components provided us with full access to the material we sought, with the notable exception of the FBI.

In August 2010, we requested files from the FBI relating to the first of 13 material witnesses. In October 2010, representatives of the FBI's Office of General Counsel informed us that the FBI believed grand jury secrecy rules prohibited the FBI from providing grand jury material to the OIG. The FBI took the position that it was required to withhold from the OIG all of the grand jury material it gathered in the course of these investigations. The FBI has also asserted that, in addition to grand jury information, it can refuse the OIG access to other categories of information in this and other reviews, including Title III materials, Federal taxpayer information; child victim, child witness, or Federal juvenile court information; patient medical information; credit reports; FISA information; foreign government or international organization information; information subject to non-disclosure agreements, memoranda of understanding or court order; attorney client information; and human source identity information. The information we have requested is critical to our review. Among other things, we are examining the Department's controls over the use of material witness warrants, the benefit to the Department from the use of the statute, and allegations of civil rights and civil liberties abuses in the Department's post-9/11 use of the statute in the national security context. The requested grand jury information is necessary for our assessment of these issues.

The FBI has also asserted that page-by-page preproduction review of all case files and e-mails requested by the OIG in the material witness review is necessary to ensure that grand jury and any other information the FBI asserts must legally be withheld from the OIG is redacted. These preproduction reviews have caused substantial delays to OIG reviews and have undermined the OIG's independence by giving the entity we are reviewing unilateral control over what information the OIG receives, and what it does not.

The FBI's position with respect to production of grand jury material to the OIG is a change from its longstanding practice.¹ It is also markedly different from the practices adopted by other components of the Department of Justice. The OIG routinely has been provided full and prompt access to grand jury and other sensitive materials in its reviews involving Department components in high profile and sensitive matters, such as our review of the President's Surveillance Program and the investigation into the removal of nine U.S. Attorneys in 2006. Those reviews would have been substantially delayed, if not thwarted, had the Department employed the FBI's new approach.

In many respects, the material witness warrant review is no different from other recent OIG reviews conducted in connection with our civil rights and civil liberties oversight responsibilities under the Patriot Act in which Department components granted the OIG access to grand jury and other sensitive material. For example, in our review of the FBI's use of "exigent letters" to obtain telephone records, at our request the Department of Justice Criminal Division and the FBI provided us grand jury materials in two then ongoing sensitive media leak investigations involving information classified at the TS/SCI level. The grand jury materials were essential to our findings that FBI personnel had improperly sought reporters' toll records in contravention of the Electronic Communications Privacy Act and Department of Justice policy.²

Similarly, in our review of the FBI's investigations pertaining to certain domestic advocacy groups, the OIG assessed allegations that the FBI had improperly targeted domestic advocacy groups for investigation based upon their exercise of First Amendment rights. In the course of this review, the FBI provided OIG investigators access to grand jury information in the investigations we examined. This information was necessary to the OIG's review as it informed our judgment about the FBI's predication for and decision to extend certain investigations. The lack of access to this information would have critically impaired our ability to reach any conclusions about the FBI's investigative decisions and, consequently, our ability to address concerns that the FBI's conduct in these criminal investigations may have violated civil rights and civil liberties.³

When the OIG has obtained grand jury material, the OIG has carefully adhered to the legal prohibitions on disclosure of such information. We routinely conduct extensive pre-publication reviews with affected components in the Department. The OIG has ensured that sensitive information—whether it be law enforcement sensitive, classified, or information that would identify the subjects or direction of a grand jury investigation—is removed or redacted from our public reports. In all of our reviews and investigations, the OIG has scrupulously protected sensitive information and has taken great pains to prevent any unauthorized disclosure of classified, grand jury, or otherwise sensitive information.

For the reasons discussed below, the OIG is entitled to access to the material the FBI is withholding. First, the Inspector General Act of 1978, as amended (Inspector General Act or the Act), provides the OIG with the authority to obtain access to all of the documents and materials we seek. Second, in the same way that attorneys performing an oversight function in the Department's Office of Professional Respon-

¹Since 2001, when the OIG assumed primary oversight responsibility for the FBI, the OIG has undertaken numerous investigations which required review of the most sensitive material, including grand jury material and documents classified at the highest levels of secrecy. Through all of these reviews, the FBI never refused to produce documents and other material to the OIG, including the most sensitive human and technical source information, and it never asserted the right to make unilateral determinations about what requested documents were relevant to the OIG reviews. On the rare occasion when the FBI voiced concern based on some of the grounds now more broadly asserted in this matter, quick compromises were reached by the OIG and the FBI. Indeed, with only minor exceptions, the FBI's historical cooperation with the OIG has been exemplary, and that cooperation has enabled the OIG to conduct thorough and accurate reviews in a timely manner, consistent with its statutorily based oversight mission and its duty to assist in maintaining public confidence in the Department of Justice.

²We described this issue in our report, *A Review of the Federal Bureau of Investigation's Use of Exigent Letters and Other Informal Requests for Telephone Records*, (January 2010).

³Our findings are described in our report, *A Review of the FBI's Investigations of Certain Domestic Advocacy Groups* (September 2010).

sibility (OPR) are “attorneys for the government” under the legal exceptions to grand jury secrecy rules, the OIG attorneys conducting the material witness review are attorneys for the government entitled to receive grand jury material because they perform the same oversight function. Third, the OIG also qualifies for disclosure of the grand jury material requested in the material witness review under amendments to the grand jury secrecy rules designed to enhance sharing of information relating to terrorism investigations.

I. THE INSPECTOR GENERAL ACT

The FBI’s refusal to provide prompt and full access to the materials we requested on the basis of grand jury secrecy rules and other statutes and Department policies stands in direct conflict with the Inspector General Act. The Act provides the OIG with access to all documents and materials available to the Department, including the FBI. No other rule or statute should be interpreted, and no policy should be written, in a manner that impedes the Inspector General’s statutory mandate to conduct independent oversight of Department programs. *See, e.g., Watt v. Alaska*, 451 U.S. 259, 267 (1981) (A court “must read [two allegedly conflicting] statutes to give effect to each if [it] can do so while preserving their sense and purpose.”).

A. The Inspector General Act Grants the OIG Full and Prompt Access to any Documents and Materials Available to the DOJ, Including the FBI, that Relate to the OIG’s Oversight Responsibilities

The Inspector General Act is an explicit statement of Congress’s desire to create and maintain independent and objective oversight organizations inside of certain Federal agencies, including the Department of Justice, without agency interference. Crucial to the Inspectors General (IGs) independent and objective oversight is having prompt and complete access to documents and information relating to the programs they oversee. Recognizing this, the Inspector General Act authorizes IGs “to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act.” 5 U.S.C. App. 3 §6(a)(1). The Act also authorizes the IGs to “request” necessary “information or assistance” from “any Federal, State, or local governmental agency or unit thereof,” including the particular establishments the IGs oversee. *Id.* §6(a)(3); *id.* §12(5) (defining the term “Federal agency” to include the establishments overseen by the Inspectors General). Together, these two statutory provisions operate to ensure that the Inspectors General are able to access the information necessary to fulfill their oversight responsibilities.

The only explicit limitation on IGs’ right of access to information contained in the Inspector General Act concerns all agencies’ obligation to provide “information or assistance” to the Inspectors General. However, this limitation does not apply to IGs’ absolute right of access to documents from their particular agency. This circumscribed limitation provides that all Federal agencies shall furnish information or assistance to a requesting IG “insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested[.]” 5 U.S.C. §6(b)(1) (emphasis added).⁴

Another provision of the Inspector General Act grants the Inspectors General discretion to report instances of noncooperation to the head of the relevant agency,

⁴The legislative history is silent on the reason for conditioning agencies’ furnishing of “information or assistance” to all IGs on practicability or statutory restriction, but imposing no such limitation on an agency’s absolute requirement to provide its documents to its own IG. However, there are possible explanations for the distinction. For example, providing access to documents and materials maintained in agency systems and files is simple, inexpensive, and an undeniable precondition to the fair, objective, and successful exercise of the IGs’ oversight responsibilities. Accordingly, the Act’s unconditional language authorizing IGs to have access to the documents and materials of the agency it oversees is understandable and sensible. In contrast, agencies may not always be able to fulfill requests for “information or assistance” immediately, even from their agency’s IG. A request of one agency from another agency’s IG may require more careful scrutiny because it would entail information being transmitted outside of the requested agency. In addition, busy agency schedules must be accommodated when fulfilling a request for an interview; subject matter experts may not be immediately available to interpret documents or may have left the agency’s employment; responses to interrogatories often require revisions and approvals; and annotations, explanations, and written analyses of existing documents and materials can take significant amounts of time. Despite the OIG’s historical success at reaching reasonable compromises with components of the DOJ responding to requests for “information or assistance,” the OIG readily acknowledges that circumstances could arise where a component’s delay, difficulty, or even refusal in responding to a request for “information or assistance” would be reasonable. These considerations are not applicable, however, to IGs’ access to documents and materials of the agency it oversees, and therefore, that provision of the Act authorizes access in absolute terms.

whether that noncooperation impedes on the IGs' authority to obtain documents or "information and assistance." Under that section, when an IG believes "information or assistance" is "unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay." 5 U.S.C. App. 3 §6(b)(2). The FBI contends this reporting provision of the Act is a further limitation on the agencies' obligation to provide documents and "information and assistance" to the Inspectors General. The FBI has argued that the provision implicitly recognizes that requests for both documents and "information and assistance" can be "reasonably refused."

The OIG believes the FBI's reliance on this reporting section as limiting an IG's right of access to documents in the custody of the agency it oversees is misplaced. This provision of the Act is entirely consistent with the right of full and prompt access to documents and materials and does not create a limitation, explicit or implicit, on the authorities provided elsewhere in the Act. By granting the Inspectors General the discretion to decide that some instances of noncooperation by an agency do not rise to the level of a reportable incident, the provision accounts for the practical reality that many instances where Inspectors General are not granted access to documents or materials, or are not provided "information or assistance" in response to a request, do not merit a report to agency management.⁵

To summarize, the Inspector General Act provides the Inspectors General a right of full and prompt access to documents and materials in the custody of the agency they oversee, a right to request "information or assistance" from any agency that is modestly limited, and an obligation to report instances of agency noncooperation to the agency head when, in the judgment of the Inspector General, such noncooperation is unreasonable. Accordingly, the Act provides Inspectors General unconditional authority to gather documents and records in the custody of the agency they oversee, an authority necessary to obtain the basic information to conduct independent and objective reviews and investigations.

B. The Only Limitation on the OIG's Authority to Conduct Audits and Investigations within its Jurisdiction is Section 8E of the Inspector General Act, and that Limitation Must Be Invoked by the Attorney General

In the law creating the DOJ OIG, Congress inserted an exception to the normal authority granted to Inspectors General. In a section captioned "Special provisions concerning the Department of Justice," the IG Act provides the Attorney General the authority, under specified circumstances and using a specific procedure, to prohibit the OIG from carrying out or completing an audit or investigation, or from issuing any subpoena. *See* 5 U.S.C. App. 3 §8E. This authority may only be exercised by the Attorney General, 5 U.S.C. App. 3 §8E(a)(1)–(2), and only with respect to specific kinds of sensitive information. *Id.* §8E(a)(1). The Attorney General must specifically determine that the prohibition on the Inspector General's exercise of authority is necessary to prevent the disclosure of certain specifically described categories of information, or to prevent the significant impairment to the national interests of the United States. *Id.* §8E(a)(2). The Attorney General's decision must be conducted in writing, must state the reasons for the decision, and the Inspector General must report the decision to Congress within 30 days. *Id.* §8E(a)(3). These provisions represent an acknowledgement of the fact that the Department of Justice often handles highly sensitive criminal and national security information, the premature disclosure of which could pose a threat to the national interests.

These exacting procedures confirm that the special provisions of Section 8E represent an extraordinary departure from the baseline rule that the Inspectors General shall have unconditional access to documents and materials, and broad authority to initiate and conduct independent and objective oversight investigations. These procedures also confirm that only the Attorney General, and not the FBI, has the power to prohibit the OIG's access to relevant documents and materials available to the Department.

II. GRAND JURY SECRECY RULES

The Federal Rules of Criminal Procedure provide the general rule of secrecy applicable to grand jury information and various exceptions to that general rule. One of the exceptions allows disclosure of grand jury information to "an attorney for the government." This exception provides a basis, additional to and independent of the

⁵For example, IG document requests can be very broad, particularly before IG investigators have learned the details of the program under review. In such instances, formal requests are often informally and consensually narrowed after discussions with the agency under review, and a report to the agency head is unnecessary. Similarly, an agency's failure to provide the Inspector General with access to a document is often inadvertent or such a minor inconvenience that the Inspector General could reasonably view the noncooperation as *de minimis*.

Inspector General Act, for disclosing the requested grand jury materials to the OIG.⁶ The OIG's reliance on the "attorney for the government" exception to obtain access to grand jury material is supported by an Office of Legal Counsel (OLC) opinion and a Federal court decision. OIG access to grand jury material under this exception is consistent with the broad authority granted to the OIG under the Inspector General Act, and it avoids an oversight gap so that Department employees cannot use grand jury secrecy rules to shield from review their adherence to Department policies, Attorney General Guidelines, and the Constitution. The "attorney for the government" exception allows for automatic disclosure of grand jury materials and is, therefore, particularly well suited to ensure that the OIG's ability to access documents and materials, and to access them promptly, is coextensive with that of the Department and the FBI.

A. OIG Attorneys Are "Attorneys for the Government"

In an unpublished opinion issued subsequent to *United States v. Sells Engineering, Inc.*, 463 U.S. 418 (1983) (a Supreme Court opinion narrowly construing the term "attorney for the government" as used in the exception to the general rule of grand jury secrecy), the OLC determined that, even in light of the Court's decision, the Rule was broad enough to encompass Office of Professional Responsibility (OPR) attorneys exercising their oversight authority with regard to Department attorneys.

In *Sells*, Civil Division attorneys pursuing a civil fraud case sought automatic access to grand jury materials generated in a parallel criminal proceeding. The Supreme Court interpreted the exception that provides for automatic disclosure of grand jury materials to "attorney[s] for the government" for use in their official duties, as limited to government attorneys working on the criminal matter to which the material pertains. *Sells*, 463 U.S. at 427. The Court held that all other disclosures must be "judicially supervised rather than automatic," *id.* at 435, because allowing disclosure other than to the prosecutors and their assistants would unacceptably undermine the effectiveness of grand jury proceedings by: (1) creating an incentive to use the grand jury's investigative powers improperly to elicit evidence for use in a civil case; (2) increasing the risk that release of grand jury material could potentially undermine full and candid witness testimony; and (3) by circumventing limits on the government's powers of discovery and investigation in cases otherwise outside the grand jury process. *See id.* at 432-33.

In its unpublished opinion, OLC concluded that the three concerns the Supreme Court expressed in *Sells* were not present when OPR attorneys conduct their oversight function of the conduct of Department attorneys in grand jury proceedings. OLC concluded that as a delegee of the Attorney General for purposes of overseeing and advising with respect to the ethical conduct of department attorneys and reporting its findings and recommendations to the Attorney General, OPR is part of the prosecution team's supervisory chain. Thus, OPR attorneys may receive automatic access to grand jury information under the supervisory component inherent in the "attorney for the government" exception.

OIG attorneys should be allowed automatic access to grand jury material in the performance of their oversight duties because OIG and OPR perform the identical functions within the scope of their respective jurisdictions. Like OPR attorneys conducting oversight of Department attorneys in their use of the grand jury to perform their litigating function, OIG attorneys are part of the supervisory chain conducting oversight of the conduct of law enforcement officials assisting the grand jury. Both the OIG and OPR are under the general supervision of the Attorney General, compare 28 C.F.R. 0.29a(a) (OIG) with 28 C.F.R. 0.39. Just like OPR, the Inspector General must "report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law." 5 U.S.C. App. 3, §§ 4(d) & 8E(b)(2). OIG attorneys make findings and recommendations to the Attorney General regarding the conduct of law enforcement officials assisting the grand jury, and the Attorney General then imposes any discipline or implements reform. Therefore, for purposes of the "attorney of the government" exception, the OIG is in the same position as OPR, both with respect to its oversight function and its relationship to the Attorney General.

More to the point, whatever formal differences exist in the relative structures of the OIG and OPR, the two offices are functionally indistinguishable for purposes of access to grand jury materials for all of their oversight purposes. The risks to the secrecy of the underlying grand jury proceedings from disclosure to the OIG, if any, are no different from those created by automatic disclosure to OPR. OPR's oversight

⁶Rule 6(e)(3)(A)(i) provides: "Disclosure of a grand jury matter—other than the grand jury's deliberations or any grand juror's vote—may be made to: (i) an attorney for the government for use in performing that attorney's duty. . . ." Fed. R. Crim. P. 6(e)(3)(A)(i).

of the conduct of Department attorneys is an after-the-fact examination of what happened during the grand jury process, just as is OIG's oversight of law enforcement agents' conduct. OIG review of law enforcement conduct in such circumstances is not undertaken to affect the outcome of a civil proceeding related to the target of an underlying criminal investigation. Therefore, disclosure of grand jury materials to the OIG runs no risk of creating an incentive to misuse the grand jury process in order to improperly elicit evidence for use in a separate administrative or criminal misconduct proceeding against the target of the grand jury's investigation. Similarly, because our review is of law enforcement conduct and not of lay witnesses who are called to testify, the willingness of those witnesses to testify should not be implicated. OIG oversight also ensures that the Department's law enforcement officials who testify before the grand jury do so fully and candidly, and that Department employees do not ignore their legal obligations to the grand jury.

Moreover, the OIG's inherent supervisory role with regard to Department employees who assist the grand jury was recognized by a Federal court overseeing proceedings relating to the death of Bureau of Prisons inmate Kenneth Michael Trentadue. The district court granted the government's motion for access to grand jury materials, finding that the OIG's investigation of alleged misconduct "is supervisory in nature with respect to the ethical conduct of Department employees." The court stated that "disclosure of grand jury materials to the OIG constitutes disclosure to 'an attorney for the government for use in the performance of such attorney's duty[.]'" *In re Matters Occurring Before the Grand Jury Impaneled July 16, 1996*, Misc. #39, W.D. Okla. (June 4, 1998).

Accordingly, there is no principled basis upon which to deny OIG attorneys the same access as OPR is allowed to review grand jury materials necessary to carry out its oversight function. Both OPR and OIG attorneys require access to grand jury materials to fulfill a supervisory function directed at maintaining the highest standards of conduct for Department employees who assist the grand jury. As such, OIG attorneys should also be able to obtain automatic access to matters that pertain to law enforcement conduct in matters related to the grand jury within the jurisdiction of the OIG.

B. The OIG is entitled to Receive Grand Jury Materials Involving Foreign Intelligence Information

Another exception to the general rule of grand jury secrecy allows an attorney for the government to disclose "any grand-jury matter involving foreign intelligence, counterintelligence . . . , or foreign intelligence information . . . to any Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to assist the official receiving the information in the performance of that official's duties." Fed. R. Crim. P. 6(e)(3)(D). This exception was added in 2001 as part of the USA PATRIOT Act and was designed to enable greater sharing of information among law enforcement agencies and the intelligence community to enhance the government's effort to combat terrorism.⁷

This exception encompasses the OIG's request for the grand jury materials at issue in its material witness warrant review. The grand jury proceedings pursuant to which the materials were collected were all investigations of international terrorist activity conducted in the wake of the terrorist attacks of September 11, 2001. All of the grand jury information gathered in them is thus necessarily "related to," "gathered . . . to protect against," or "relates to the ability of the United States to protect against," among other things, "international terrorist activities." See 50 U.S.C. § 401a and Rule 6(e)(3)(D). All of the grand jury material gathered in those investigations thus constitutes foreign intelligence, counter intelligence, or foreign intelligence information (collectively, Foreign Intelligence Information).

In addition, OIG officials qualify as law enforcement officials within the meaning of the rule by virtue of the Inspector General's authority to conduct criminal investigations, apply for search warrants, make arrests, and investigate violations of civil rights and civil liberties. See, e.g., 5 U.S.C. App. 3 § 6(e)(1); USA PATRIOT ACT, Public Law 107-56, § 1001, 115 Stat. 272, 391 (2001). Also, the OIG's oversight activities constitute law enforcement duties for purposes of the foreign intelligence exception because they directly affect the design and implementation of the Department's law enforcement programs.

The OIG has discussed the access issues with Department leadership and sought their assistance in resolving the dispute with the FBI. Although the Department's consideration of all these issues is ongoing, in July 2011, the Department concluded that, at a minimum, the foreign intelligence exception authorizes an "attorney for the government" to disclose grand jury information to the OIG for use in connection

⁷Public Law 107-56, § 203(A)(1), 115 Stat. 272, 279-81 (2001).

with OIG's law enforcement duties, such as the material witness warrant review, to the extent that the attorney for the government determines that the grand jury information in question involves foreign intelligence. Since then, an "attorney for the government" in the Department's National Security Division (a Department component under review in the Material Witness Warrant review), has been conducting a page-by-page review of the materials withheld by the FBI to determine whether they qualify as Foreign Intelligence Information under the exception before providing them to the OIG. In addition, the FBI has continued its own page-by-page review of some of the requested files to identify and redact grand jury and other categories of information, before the National Security Division attorney performs yet another review for the purpose of sending the material back to the FBI for the removal of grand jury foreign intelligence information redactions.

The Department's confirmation that the foreign intelligence exception is one basis for authorizing the OIG to obtain access to grand jury information was helpful. However, the page-by-page review of the material being conducted by the FBI and National Security Division to implement that decision is unnecessary. In our view, such page-by-page review is not necessary here because all of the grand jury material we have sought to date in the material witness review was collected in investigations of international terrorist activity conducted in the wake of the terrorist attacks of September 11, 2001, and thus necessarily falls within the very broad definitions of foreign intelligence, counterintelligence, or foreign intelligence information. See 50 U.S.C. § 401a and Rule 6(e)(3)(D). Therefore, the exception allows the OIG to receive all of the grand jury information from those investigations.⁸

Although the Department's determination that the OIG is entitled to access to the requested grand jury information in the material witness review under the foreign intelligence exception is helpful, that decision does not resolve the access issue. First, it does not address access to grand jury material that does not involve foreign intelligence information. Second, the Department's preliminary decision under the foreign intelligence exception does not address access to grand jury material in other OIG reviews. And third, the decision has been construed by the National Security Division and the FBI to require page-by-page review of the information, thereby undermining the independence and timeliness of the OIG's review as described above. Accordingly, a full decision confirming the OIG's right of access to grand jury and other information under the Inspector General Act and the "attorney for the government" exception is still necessary to enable the OIG effectively to carry out its oversight mission.

III. CONCLUSION

The objective and independent oversight mandated by the Inspector General Act depends on the fundamental principle that the Inspectors General should have access to the same documents and materials as the establishments they oversee. This principle explains why the Inspector General Act grants the IGs access to the documents and materials that are available to their establishments. It explains why OIG investigators are routinely granted access to TS/SCI materials when reviewing TS/SCI programs. It explains why OIG investigators are routinely read into some of the government's most highly classified and tightly compartmented programs, such as the President's Surveillance Program and the programs involved in the Robert Hanssen matter. And it explains why any instance of unreasonable denial of access to documents or materials under the Inspector General Act must be reported to the head of the agency, and why the Attorney General's decision to preclude an OIG audit, investigation, or subpoena must be reported to Congress.

The FBI's withholding of grand jury and other information is unsupported in law and contrary to the Inspector General Act and exceptions to the general rule of grand jury secrecy. The OIG is entitled to access under the Inspector General Act. Moreover, the OIG qualifies for two exceptions to the general rule of grand jury secrecy. See *supra*; see also 5 U.S.C. App. 3 §6; Fed. R. Crim. P. 6(e)(3)(D), 6(e)(3)(A)(i). It is true, of course, that under Section 8E of the Inspector General Act, the Attorney General could deny the OIG access to the documents at issue, as many of the documents constitute sensitive information within the scope of that Section. See 5 U.S.C. App. 3 §8E. But the Attorney General has not done so, and until he

⁸As noted above, such page-by-page reviews are also improper because they are contrary to the provisions of the Inspector General Act granting the OIG broad access to any document or material that is available to the agency overseen; undermine the independence of the Inspector General by granting a component under review unilateral authority to determine what materials the Inspector General receives, and result in unacceptable delays in the production of materials necessary for the OIG to conduct its oversight.

makes the written determination required in Section 8E(a)(2) and sets out the reasons for his decision, the OIG is entitled to prompt and full access to the materials.

Denying the OIG access to the materials it is seeking would also represent an unnecessary and problematic departure from a working relationship that has proven highly successful for years. Since its inception, the OIG has routinely received highly sensitive materials, including strictly compartmented counterterrorism and counterintelligence information, classified information owned by other agencies, and grand jury information, and it has always handled this information without incident. The OIG has always conducted careful sensitivity reviews with all concerned individuals and entities, both inside and outside the Department, prior to any publication of sensitive information, and it has been entirely reasonable and cooperative in its negotiations over such publications. The OIG's access to sensitive materials has never created a security vulnerability or harmed the Nation's interests; far from it, the OIG's access to sensitive information has markedly advanced the Nation's interests by enabling the independent and objective oversight mandated by Congress.

Simply put, there is no reason, legal or otherwise, to depart from the time-tested approach of allowing the OIG full and prompt access to documents and using a thorough prepublication sensitivity review to safeguard against unauthorized disclosure of the information therein. Access to grand jury and other sensitive materials is essential to the OIG's work, perhaps never more so than when the OIG is overseeing such important national security matters as the Department's use of material witness warrants and the FBI's use of its Patriot Act authorities. But whatever the subject matter, the authorities and mandates of the Inspector General are clear, and neither grand jury secrecy rules nor any other statutory or internal policy restrictions should be read in a manner that frustrates or precludes the OIG's ability to fulfill its mission.

Senator SHELBY. But, we want to make sure the Inspector General can do his job, even in the Justice Department.

Chairwoman MIKULSKI. Senator Shelby, why don't we, then, continue this with the Inspector General? And—

Senator SHELBY. We will.

Chairwoman MIKULSKI [continuing]. Given the fact that there's an 11:30 vote—

Senator SHELBY. Okay.

Chairwoman MIKULSKI [continuing]. We want to be sure members have a chance to—

Senator SHELBY. Thank you for your time.

Chairwoman MIKULSKI [continuing]. Answer their questions. No, and not to stifle—this is really crucial—

Senator SHELBY. It is.

Chairwoman MIKULSKI [continuing]. And we acknowledge the essential nature of this conversation. And we'll, hopefully—

Senator SHELBY. Sure.

Chairwoman MIKULSKI [continuing]. Be able to squeeze in the Inspector General.

Senator COLLINS.

Senator COLLINS. Thank you.

GRANTING ASYLUM

Mr. Attorney General, I mentioned, in my opening remarks, that the Department of Justice, along with the Department of Homeland Security, plays a critical role in reviewing claims for asylum. I believe that this system is seriously broken. It has allowed individuals to remain in this country under grants of asylum who never should have been allowed to remain here. And yet, it takes too long to adjudicate the legitimate cases of asylum-seekers, thus delaying their ability to work and support their families, and imposing a huge burden on communities' general assistance funds

while these asylum-seekers are waiting for their cases to be adjudicated.

I'd like to give you an example of both, and then get your response and find out what you're doing with the Department of Homeland Security to improve the system.

Later this month, as we who live in New England are particularly aware, it will be 1 year since the terrorist attacks at the Boston Marathon. The circumstances under which the perpetrators of the Boston Marathon bombing came to be in the United States underscores the need for reform of our asylum process. The younger of the two Tsarnaev brothers came to the U.S. on a tourist visa in 2002, and was granted asylum on his father's petition shortly thereafter. Now, asylum is supposed to be available only to those who can show a credible fear of persecution in their home country. Yet, the elder Tsarnaev came to the United States, leaving behind his wife and three other children in the country that he claimed to fear. So, it's difficult for me to understand how he possibly could have met the burden of proving a credible fear of persecution by the country in which he left his wife and remaining children.

Even more troubling are the questions surrounding the grant of asylum to Ibragim Todashev. That is the Chechen immigrant who was killed while being questioned by the FBI agents and local law enforcement regarding his association with the Tsarnaevs and also a triple homicide. It turns out that he came to the U.S. in 2008 on a J-1 visa to participate in an exchange program that was sponsored by an entity in my State, the Council on International Education Exchange. And that is a J-1 visa sponsor organization.

Now, from the start, it appears that Todashev had no intention of complying with the J-1 visa rules. And indeed, shortly after he arrived, the Council withdrew their sponsorship of him because he failed to provide the required documentation with respect to employment. That very day, the Council in Maine instructed him to make immediate plans to leave the country, recorded the information on the Federal database that is used. And yet, despite this agency doing everything correct, and despite the fact that Mr. Todashev was out of compliance with the requirements of his visa, he was later granted asylum and even a green card. This shocked the entity in Maine that reported him from being out of compliance with the visa years ago.

I find this very troubling. How is that a young man from Chechnya comes to the United States to participate in a cultural exchange program, immediately violates the conditions of his visa, is told to leave the country, and then is granted asylum? That, to me, shows there's a real problem with sharing of information and with the system.

Now, on the other side, we have the problem of legitimate asylum-seekers, and they have been forced to rely on local governments for the money that they need to live on. In Maine, for example, the cities of Portland and Lewiston, alone, have contributed \$10 million from their general assistance programs to support nearly 4,000 asylum-seekers and their families over the past 2 and a half years while they're awaiting the adjudicating of their claims to give them a work authorization.

So, we've got problems on both ends of the spectrum, which suggests to me that the entire system is broken. What is the Department of Justice doing to work with the Department of Homeland Security to solve these very serious problems?

Attorney General HOLDER. Well, the responsibility for the immigration system, I think, largely falls into the hands of DHS, but that is not to try to shirk the responsibility that the Justice Department has. We simply need more immigration judges. The number of cases that have been pending has continued to increase, an increase of 56 percent since 2009. Our budget request will enable EOIR, our EOIR, immigration component, to add 35 new immigration judge teams. That would increase our capacity to look at these cases, adjudicate them in an appropriate way, listen to the evidence, and make decisions that are based on the facts as they are actually developed. We simply don't have, at this point, the ability to do the job in as timely a way as I think we should have that ability to do.

Senator COLLINS. Well, I support your request for additional resources, but, frankly, if those judges aren't looking at the databases and aren't looking at the information from DHS, consulting with the Department of State on whether there should be a credible fear of prosecution, looking at whether there are violations of visas, adding more judges won't solve the problem. I think we need to do both.

Thank you, Madam Chairman.

Chairwoman MIKULSKI. That was an eye opener. Thank you very much. It was very meaty. And it also shows, when we do immigration reform, we have to look at these practical implementations at the local level. What Maine is paying is stunning.

Senator Shaheen.

Senator SHAHEEN. Thank you, Madam Chairman.

Mr. Attorney General—

Attorney General HOLDER. Good morning.

Senator SHAHEEN [continuing]. Thank you very much for being here.

HEROIN AND PRESCRIPTION DRUG ABUSE

As I'm sure you're aware, what we've seen in New Hampshire and northern New England is a real epidemic spread of heroin and prescription drug opioid use. And we're seeing that very much in New Hampshire over the last 10 years. The number of people admitted to State treatment programs has increased 90 percent for heroin use and 500 percent for prescription drug use. And, just in the last year, we've seen double the number of deaths from heroin abuse between 2012 and 2013.

Now, this summer, New Hampshire plans to institute a new prescription drug monitoring program in the State because of a Department of Justice grant that we have received. And I wonder if you could comment on how effective these types of monitoring programs have been in other parts of the country, and what other Federal resources might be available to help us in the States as we try and combat this real epidemic of heroin and prescription drug use?

Attorney General HOLDER. Well, Senator, I think you're correct to point out—and the term that's used, I think, is a correct one,

there is an epidemic. It is one that we certainly see in your State, in that region of the country, but it's something that we see nationwide. And I think we have to have a balanced approach to dealing with this. There has to be an enforcement component. The DEA will lead that. We have an increase of more than 320 percent, between 2008 and 2013, in the amount of heroin that we have taken from the cartels that was meant for our shores.

But, beyond that, enforcement alone is not enough. We have to also make sure that we identify this problem as a public health problem. Police officers, doctors, educators. We have to come up with treatment programs, prevention programs, and educational programs.

I don't think that we should repeat the mistake, frankly, that we made when we dealt with the crack epidemic, where we looked at it only as an enforcement issue. There has to be an enforcement component, but we have to bring into play all of these other resources that we have, including supporting the programs that you have described, these monitoring programs. It is why I think it is so important that our capacity to aid our State and local partners be made whole in our budget. These are issues that the Federal Government clearly has an interest in, but, on the ground, it's our State and local partners who have to do these kinds of things. And I want to have the ability, through our grant making ability, to support these efforts.

DRUG MONITORING

Senator SHAHEEN. Well, thank you. And obviously the Byrne Justice grants have been very helpful to us in New Hampshire, and there has been a real coordinated effort on the part of law enforcement. I would hope that you might consider sending someone up from the Justice Department to meet with our local law enforcement officials as we try and address this issue, because, as you point out, it's going to require a multilevel approach to really do something to make a difference as we look at how many people are being affected.

Can you talk a little bit about some of the other efforts the Department has undertaken to better integrate these kinds of strategies, other than—we know the Byrne grants are very helpful, we know that the monitoring programs are another way to try and address it. What else is the Department doing that can be helpful to States like New Hampshire?

Attorney General HOLDER. Well, we certainly have a variety of things. I mean, we have a great U.S. Attorney in New Hampshire. And so, there is—

Senator SHAHEEN. Who's doing a great job, I might add.

Attorney General HOLDER [continuing]. And so, there is certainly the help that we can give on the enforcement side there.

With regard to grants, I think that's certainly something that we want to consider. We have the COPS program, so that we have the ability to put more police officers on the ground, again, to deal with these kinds of issues. We also want to come up, I think, with programs that we work with the Department of Health and Human Services, as the Chair had suggested. This has to be something that is more than simply a Justice Department initiative. And I

think that we have the ability now to really potentially nip this in the bud. But, I think that we have a relatively small window before this potentially gets even more out of control than it is.

And I think, as I said, if we take a balanced approach involving agencies beyond the Justice Department making sure that we are supportive of our State and local partners, and so that we educate, and especially educate young people, about the dangers of prescription drug use, opioid use, and the problem with heroin use, I think that we can really have a significant impact on this problem.

Senator SHAHEEN. Thank you.

Thank you, Madam Chair.

Chairwoman MIKULSKI. Senator Shaheen, we thank you for raising the issue here. We—also, others have raised it. I hear it, too. We've asked the Attorney General to really take the lead in inter-agency, because we've got to go to—starting with the prescription drug issue up to this. So, thanks.

And I say to my members here that, as the Attorney General develops a strategy, we can arrange a staff briefing to get updates and make sure we put this in.

Senator Kirk, a well-known anti-gang fighter.

GANGS

Senator KIRK. I wanted to ask you, Mr. Attorney General, about the \$18 and a half million that this subcommittee has approved to fight gangs of national significance to also highlight the work of Anita Alvarez, the State's Attorney for Cook County, that took down an entire gang, called the Black Souls, at one shot with using resources from your Department. I would say that's a very good model that the public can get behind, taking out a whole gang. I would say that this was not one of the vast gangs—like we have the Gangster Disciples, over 18,000 members. There were 23 defendants, in the case of the Black Souls arrest in June.

GANGS OF NATIONAL SIGNIFICANCE

I would just highlight that issue as a way of attacking this problem. We do have about 253 factions of the GDs in Chicagoland. If we can execute the \$18-and-a-half-million strategy to whack a number of those factions and totally eliminate them, that you will have a lot of support from this subcommittee.

Attorney General HOLDER. Well, I certainly appreciate that, Senator. I think you're right to identify that as a challenge that we have to meet. You know, Chicago, I think, in some ways, gets an unfair rap. This is not a problem that is Chicago only. This is a problem that exists throughout the country, this problem of gangs. Our Marshal Service plans to hire gang and technical operation group investigators in seven regional fugitive task forces. And we've begun that process, because we understand this is a problem that is really nationwide in scope. And the effort that you described, where you take down significant numbers of these gang members at one time, can really tend to cripple them. And so, we're looking to make those kinds of cases.

We want to be strategic in the way in which we use the resources that we have. But, the reality is, unless we get at this gang problem, we won't get at what I think is really the root of our violence

problem in too many of our cities. And, you know, as I said, it's just not Chicago, it goes well beyond Chicago.

Senator KIRK. Yes. And—

Madam Chairwoman.

Chairwoman MIKULSKI. And, Senator Kirk, we want to continue the effort that you so ably undertook, and keep this going. You're onto something big, here, and we think it's crucial.

Senator KIRK. Thank you.

Chairwoman MIKULSKI. Senator Merkley.

FINANCIAL FRAUD

Senator MERKLEY. Thank you, Madam Chair. And thank you.

About a year ago, you set off a bit of a firestorm when you noted that one of the reasons that certain companies couldn't be prosecuted is because of the economic impact of potential indictments. And later, you backed off that a little bit. But, the general point continues to resonate that there have been a host of dramatic activities. It seems like every 3 months, we have another major scandal, and these scandals involve wrongdoing; and often at the heart of it is criminal wrongdoing, but largely the institution ends up paying a fine and everyone goes back to business as usual.

I'm just kind of stunned by the list of things that have happened during the time that I've been in the Senate. We have offshore tax evasion by international banks, we have the manipulation of the LIBOR interest index, we have structured mortgage-backed securities that were designed to fail, we have foreclosure fraud, including robo-signing. We have the laundering, of which, I think, the premier example was Hong Kong Shanghai Bank Corporation, of what was estimated to be hundreds of billions of dollars, possibly a trillion dollars, and there were laundering activities that involved terrorist activities, drug rings, they involved transactions, the proceeds of transactions with states where we have economic sanctions that are very important to our national security, like our relationship with Iran, and trying to prevent Iran from having a nuclear weapon. We have the manipulation of electricity prices in an Enron-style scheme. I mean, it just—the list goes on.

INDICTING CORPORATIONS

Have we reached a different point now? Have we successfully tackled the issue of "too big to fail" and its close cousin, which is more in your realm, of "too big to jail"?

Attorney General HOLDER. Well, what I'd say is, first, that there might have been some misinterpretation, misunderstanding about what I said. So, I wouldn't say that I necessarily pulled back from what I said in that initial statement. Maybe I clarified it. But, let me be very clear. No institution is too big, no person is too important, to be held accountable in a criminal sense, if that is appropriate.

And if you look at what we have done, beginning in 2013, and look at the guilty pleas we've gotten from financial industries—UBS, RBS, SAC Capital, Wegland, a Swiss bank; if you look at individuals, we've gotten individuals from JPMorgan, Goldman Sachs, Morgan Stanley, Credit Suisse, UBS, Rabobank, ICAP, Galleon, SAC, Stanford Financial Group. So, we have gotten pleas,

both from institutions and from individuals. We've also done creative and, I think, appropriate things—appropriately aggressive things with regard to our use of the civil law, as well.

I am proud of what this Department has done in holding accountable people who were partially responsible for the mortgage meltdown that led to our financial crisis, and other things that we have done in the financial realm. This Department's record, under my leadership, will, I think, stand the test of time. And I'll compare it to any other Justice Department, any other Attorney General, at any other time.

Senator MERKLEY. So, you would say there is no hesitation to pursue criminal charges because of the potential impact on an institution? I mean, Arthur Andersen was the example so often put forward. And certainly a large bank falling would have big reverberations. We all understand that, and that's been the dilemma. But, are you saying, today, that dilemma doesn't exist and it's not weighed at all by the Justice Department?

Attorney General HOLDER. There are factors that we considered. There was a process that was begun under a Deputy Attorney General named Holder, back in the Clinton administration, where we put out a certain number of factors that have to be considered before a determination is made about when an institution is criminally prosecuted.

If you go after an organization, and you put that organization out of business as a result of the indictment, that is something that I think you should appropriately consider. There are innocent people who then get punished—potentially, employees, shareholders. Doesn't mean that you shouldn't—you might have to make the determination that because the company is a recidivist or the harm is so great that that is, in fact, the price that innocent people will have to pay.

But, these are the kinds of things that we have to consider. And I think our track record shows that, where we have made the determination that people and institutions should be held accountable, we have not hesitated in doing so.

Senator MERKLEY. Well, I'll close with this. I think what really stuck in my mind is that, the same week that the settlement came out with HSBC, which, I may be wrong, but I don't think involved any individuals being prosecuted—that same week, there was a story about a woman whose boyfriend stashed his drug money in a coffee can in her attic. And, if I recall right, I think she is serving 15 years in prison. And so, one involved a few dollars, the other hundreds of billions of dollars. And it just seemed like the sort of thing that sticks in people's minds as to whether the justice system is not weighted heavily in favor of the powerful. And I just want to encourage you to do all you can—and I understand that often it makes sense when individuals are involved, to go after the individuals rather than the institution, for the reasons we're discussing. But, it's important to our system in the United States that the powerful don't pay a fine while the ordinary person goes to prison.

Attorney General HOLDER. Senator, you make an excellent point—

Chairwoman MIKULSKI. Thank you very much. Thank you.

Attorney General HOLDER. I was just going to say this. One of the reasons why our Smart on Crime initiative has at its base the notion that there has to be proportionality in regard to how we enforce the criminal law. And so, what I'm trying to do is work with Congress so that we put some sense of balance back into the system that has gotten a little out of balance. But, the concerns that you raise are very legitimate ones.

Chairwoman MIKULSKI. Thank you very much, Senator Merkley. Senator Murkowski.

DRUGS

Senator MURKOWSKI. Thank you, Madam Chairman. Madam Chairman, you have raised, as well as Senator Shaheen, the issue of apparent heroin and what we need to do as we move forward. And you've used the terminology that we need to be on the edge of our chair when it comes to issues like heroin.

I would suggest, also—and I present this to you, Mr. Attorney General—that we are seeing an increasing level of synthetic drugs that are coming into our communities and doing great damage. And, of course, the problem is that, as a State, you can say that, based on this formulary, this is a drug under this schedule, but all these individuals have to do is change that formulary, and they evade or avoid those laws. We're seeing some really devastating impact in some of our very, very remote communities, where the only way to get these drugs is by the mail. And the drugs are coming into the community through the mail, and——

Chairwoman MIKULSKI. Through the Post Office?

Senator MURKOWSKI. Through the United States Post Office, Madam Chairman.

Attorney General HOLDER. Yes.

Senator MURKOWSKI. And it is—it's something that we've been trying to work on some issues up north, but, again, we're seeing—I don't know whether we call it an epidemic, a crisis, but we are being beat on these issues and the impact to our communities, again, utilizing legal processes to get these drugs in there that are, in many cases, wiping out families. So——

Attorney General HOLDER. Well, Senator——

Senator MURKOWSKI [continuing]. We need some assistance, here.

Attorney General HOLDER. Senator, you've raised something that I think is a point that we really need to focus on. And I had the same reaction that the Chair did when I first heard about this. But, you're right, the Postal Service, the mail, is being used to facilitate drug dealing. We need to work with the Postal Service to come up with ways in which we get at that problem. It is shocking to see the amount of drugs that get pumped into communities all around this country through our mail system. And we have to deal with that. That's a major problem that we have to deal with.

Senator MURKOWSKI. It is major. We need to be talking further about this. I've got some ideas, but we need to get on it yesterday.

PROSECUTION OF SENATOR STEVENS

Mr. Attorney General, as you know, I continue to seek further answers in the miserable prosecution that brought Senator Ted

Stevens down. We had the FBI Director, Mr. Comey, before the committee last week. He indicated, at that time, to me that the FBI agent who had brought about this whole issue, that he had been severely disciplined. He—the investigation came under scrutiny, he was severely disciplined. He didn't indicate what that was. And I think we all know there may be varying degrees of—what might be severe discipline to one is a slap on the wrist to another. Can you shed any light on the status of that individual, whether he's still working for the FBI? If so, in what capacity? I have requested from Mr. Comey a copy of the report to be submitted here to the subcommittee so we can further review it. But, it is important that we understand what happened.

Attorney General HOLDER. Yes. I'll support that effort to make sure that you get that information with regard to the FBI agent. There also were two prosecutors, two lawyers, who were found to have acted inappropriately. They have been sanctioned. They have appealed the penalties that we sought to impose. And their appeals are now presently pending before the Merit Systems Protection Board. Once that body makes its determination, we'd be more than glad to share with you—I think that's appropriate—to share with you what the Board decides to do with those lawyers. But, we imposed sanctions against those lawyers, and that is now—as I said, that has been appealed to the MSPB.

Senator MURKOWSKI. And so, they're still working with the FBI?

Attorney General HOLDER. I'm talking about the lawyers. The lawyers are still at—still at—

Senator MURKOWSKI. Excuse me. With Department of Justice.

Attorney General HOLDER. They're still at the Department, yes.

Senator MURKOWSKI. So, I—again, I would suggest, you know, Is this really harsh discipline?

Let me inquire further in this area. Last year, I introduced the Fairness in Disclosure of Evidence Act, and what we're attempting to do is ensure that the obligation to disclose the exculpatory evidence to Federal defendants, in accordance with Brady rules, is uniformly applied across the districts. I think we saw, in the Stevens case, that this was part of the problem. This bill was endorsed by broad spectrum of folks, but, at the end of the day, apparently was unacceptable to the Department. And yet, there was no real assistance or guidance, in terms of what was not acceptable to the Department.

So, what I would ask of you—I mean, I can keep trying to write bills on this. I'm not going to give up. I think that this is too important. But, if you would be willing to work with us to determine what might be acceptable, in terms of those parameters—because, again, I think, when we lack uniformity with regards to these—this obligation to disclose this evidence, you're going to get outcomes that will not only be upsetting, but are difficult, then, to defend from within your Department.

So, if you would give me some assurance that we can be working with you to try to better define this, I'd appreciate it.

Attorney General HOLDER. Well, certainly we want to work with you and certainly maybe make available to you, or aware of, the training that we do in the Department. There—

Senator MURKOWSKI. We've been told about the training. But, again, you've got—you don't have uniformity across the districts. And so, if you're—if you've got training going on over here, and you focus in one area, and the application is different than we have over there, it doesn't achieve the same end result.

Attorney General HOLDER. Yes. And that's something we've tried to eradicate through this training so that there is one person in every office, every U.S. Attorneys' Office—at least one—who can be seen as almost an ethics guru, a person to whom you can go if you have a question about what materials should be turned over. And we also try to make sure that every prosecutor understands his or her obligations under what is clear Supreme Court law, as defined in Brady and in subsequent cases.

I think that the problems that were identified in the Senator Stevens case, and which I think justified my decision to dismiss the case, are not typical of what happens with Federal prosecutors around this country who, in millions of cases, making millions of decisions, are complying with their Brady and other ethical obligations.

And I think there's a danger that we paint with too broad a brush the really terrible experience that we had in Stevens, and blame other people, other prosecutors who have not done anything improper, inappropriately, and they are seen in the same light.

So, I'd be more than glad to work with you and talk to you about this issue, and try to come up with a way in which we can satisfy you that we are doing a good job. And if there are suggestions that you have about ways in which we can do this better, I'd be more than glad to sit down and talk to you and work with you in that regard.

Senator MURKOWSKI. Thank you, Madam Chairman.

Chairwoman MIKULSKI. Senator Landrieu.

Senator, before you begin, I want to advise the committee that the votes at 11:30 a.m., have been postponed to late this afternoon, now pending at approximately 4:30. Who knows.

Senator Landrieu.

SAFETY OF CORRECTIONAL OFFICERS

Senator LANDRIEU. Thank you, Attorney General Holder, for your service. And thank you, Madam Chair, for your leadership.

I have three questions. One of them is about the safety of our corrections officers in some of our high-security Federal prisons. As you know, one of the challenges that the Chairwoman of this committee has taken up, and the Nation is focused on, is the overcrowding of our prisons, the per-capita—you know, the per-capita statistics about the number of people in prison in the U.S. We've had discussions about this, this morning. We need to change our policies, we need to provide additional resources. But, I want to focus specifically on the safety of our corrections officers.

You may be aware that in Louisiana we had one of our corrections officers brutally—

Attorney General HOLDER. Right.

Senator LANDRIEU [continuing]. Brutally beaten and stabbed. He, because of the rules of the Department of Justice and the staffing

requirements, was on a floor, Madam Chair, with 100 prisoners out of their cells, and there was one security officer.

PRISON STAFFING

Now, in the letter that I wrote to you, and you responded, one of the responses—part of the response was that you all had provided pepper spray for some of these officers. Now, I'm not sure how effective pepper spray is going to be, Mr. Secretary, in the hands of one officer with 100 prisoners out of their cells.

So, the budget request to help upgrade the security for these officers was \$79 million. It was not submitted in your budget. There are other priorities, I understand. But, did you—did this come up to you? Did it come to a lower level of decision about the allocation of resources to protect these officers that we're asking to do pretty dangerous jobs in pretty dangerous situations? And would you reconsider?

Attorney General HOLDER. Well, the concerns you've raised are very legitimate, Senator. And what we're trying to do is work at this from two angles:

First, to work with the union. We have a different relationship with the new leadership of the union, a new director of the Bureau of Prisons, and I think we have made really substantial progress in that relationship. It is not as antagonistic as it once was. And, I think, through that relationship and through the interaction that they're going to have, I think we'll do better.

We're also prioritizing the filling of staff positions. The fiscal year 2015 request supports the hiring of 4300 new officers that were included in our 2014 enacted appropriation. We need, simply, more bodies, and that is why we are prioritizing filling staff positions, so that we have more people there, in addition to whatever else that we're doing with the union.

Senator LANDRIEU. Okay. Well, I would appreciate your continued focus on that. The prison in Pollock is this particular situation, but I understand there have been literally dozens, if not, you know, hundreds, of incidents of attacks against correctional officers. And, while we do want to focus on the safety of the prisoners, which is important, as well, we really want to focus on the safety of the men and women in uniform doing their job to keep order in the prison and in our country.

TRANSITION TECHNICAL ASSISTANCE PROVIDERS

My second question is about domestic violence. It's something that the Chairman and I have supported, and many members of this committee, literally for years and years. There's some kind of new provision that you all are encouraging in the budget called "transition officers"—I'm sorry, "technical assistance providers" to the domestic violence shelters around the country. I've been hearing some complaints about that from my network of—that I trust; in and out of administrations, Republican and Democrat, they've been very, very good to do this work. They're saying that some of these transition technical assistance providers come in without a lot of knowledge about what's actually happening on the ground in our regions and in our cities. I'm encouraged that your budget includes 423 million to reinforce efforts to combat domestic violence.

We rank, Louisiana, one of the top States, unfortunately, for domestic violence in the country.

But, can you comment about this office, this new contractual arrangement with technical assistance providers? What are they supposed to be doing, and why are they needed?

Attorney General HOLDER. Well, I'll be very honest with you, I'm not familiar with the complaints that you have raised. And perhaps our staffs can get together and we can get some more specifics about the complaints that have been raised so that we can examine who these people are and what the nature of the problems might be.

We have an Office on Violence Against Women budget request of \$423 million, and this whole notion of combating domestic violence, sexual assaults, and violence against women generally, is a priority for this Justice Department, and it has been a priority of mine throughout my career. To the extent that there are issues in the way in which we are using all—those resources, I'd—

Senator LANDRIEU. Well, I would—

Attorney General HOLDER [continuing]. Like to spend some more time with you —

Senator LANDRIEU [continuing]. Appreciate that, because I know it's been a priority, and I want to commend you and the President for your emphasis on it. But, that's what worries me, when this came up. So, I'll follow—

And, Ms.—Madam Chairman, I'm just going to submit this question to the record.

The New Orleans Police Department entered into a consent decree with your office. There doesn't seem to have—they don't have the review that was required yet. My question, in writing, What is causing the delay? And what process are you using to review the NOPD Justice? And I'll submit that in—

[NOTE: See response to Senator Landrieu's question in the "Additional Committee Questions" at the end of the hearing.]

Attorney General HOLDER. Okay.

Senator LANDRIEU [continuing]. Writing.

Attorney General HOLDER. Thank you.

Chairwoman MIKULSKI. Senator, that was excellent.

Senator Boozman, you've been very patient.

Senator BOOZMAN. Thank you, Madam Chair, as always.

And thank you for being here.

I was looking—when you look back 15 years ago, the Bureau of Prisons' enacted budget was \$3.1 billion. I think this year we're asking for—fiscal year is \$6.9 billion, which I'm very supportive of. Senator Landrieu has outlined some of the problems that we have. I've had the opportunity to visit some prisons, and see that there are really difficult situations. The problem is—right now, it's taking up 25 percent of your budget—as opposed to, not too long ago, just 16 percent. So, we've got to do something to bend the cost curve.

DRUG COURTS

One of the things that I'm being supportive of, very interested in, is drug courts. And a GAO study in 2011 confirmed that drug courts reduce crime by up to 58 percent. The best drug courts cut

crime rates in half, return \$27 to their communities for every \$1 invested.

The other thing is, when people go off to prison, usually they're working, and help to support the family——

Attorney General HOLDER. Right.

Senator BOOZMAN [continuing]. So you leave the family destitute.

So, I would really encourage us to look at that. I think it's something—to me, it's just a no-brainer. We don't do a good job of supporting at the Federal level, our States aren't doing a good job of it. We do need to look and make sure that—I say the good drug courts are returning that—we do need to have standards and make sure that they're doing things appropriately. But, again, if you could look at that, and I know that you are interested in, it's something that we can get done.

The other thing I'm really concerned about as has been mentioned on several occasions today, is the prescription drug problem. Now, we don't want to put meth on the back burner, which it seems to be done a little bit, because, when I talk to our sheriffs—though it might not be used as much, it's the cause of the violent crime. It's the—when you look at who's in prison, you've got all these people using different things, but the people that are actually in prison causing violent crimes are meth-related. So, there's just something about that drug that totally rewires your system.

But, in regard to the prescription drug problem, I really do wish you'd get a task force together. This is something that the CDC needs to be involved, the NIH and research, our prescribers—there's no good data as to how addictive this stuff is. And so, it's being overprescribed. We need to educate the prescribers more than we need to educate the individuals that are doing it.

We all have these drug take-back days. You can go into some little community, and they have a drug take-back, and there'll be pounds and pounds of this stuff that come in. These are the good people, that actually go to the trouble to drop it off. As I visit with my sheriffs, going to the rehab centers and asking them where they're getting it, many of the people that got their prescription drug pills through the mail or whatever, it was sold to them through senior citizens that are supplementing their Social Security. The VA's been terrible about this, and they're doing a better job. You know, we're staying after——

So, I guess what I would really encourage, we really need to get all of those groups together. Prescribing is a huge issue. We need to get really aggressive. I think that—my understanding is that probably the leading cause of accidental death in young people now is——

Attorney General HOLDER. Drugs.

Senator BOOZMAN [continuing]. Prescription drugs and alcohol. If we had the same sort of casualty rate overseas, with young people dying as a result of some sort of situation we were in, as far as a war, there would be a tremendous uproar.

But—I've gone on too long, but if you would just consider those things, I think we can actually do some good.

Attorney General HOLDER. Well, Senator, I actually think that you didn't go on too long, because I think what you've talked about is extremely important. The use of drug courts is extremely impor-

tant. About a third of our budget now is taken up by expenses connected to the Bureau of Prisons. And we certainly have to do all that we can to keep people who work in our prisons safe. But, if a third of the budget, and increasingly more of the budget, is going to the Bureau of Prisons, that's fewer prosecutors that we can hire, fewer agents who we can put out on the streets. And drug courts are a way in which we can handle these kinds of problems in a way that's more cost-effective, reduce the prison population, and that has all kinds of benefits that flow from it.

We have focused on heroin here today, but your focus on meth is exactly right. This continues to be a problem that is directly connected, for whatever reason—pharmacological, I'm not sure—with violence. And we cannot lose sight of that problem, as well.

So, the approaches that you are talking about, I think make a great deal of sense and are consistent with the approaches that we are trying to push as part of the Smart on Crime initiative, where we are looking at new, innovative ways—evidenced-based ways in which we can deal with these issues. Strong enforcement—we're not giving up on that at all—but also looking at ways in which we deal with these drug problems in new ways, through, for instance, as you describe, drug courts, which I think have a great record, if done well, of turning people around, getting them off their habits, and cutting the recidivism rates, which ultimately saves us money.

Senator BOOZMAN. Thank you, Madam Chair.

Chairwoman MIKULSKI. I'm turning to Senator Leahy, who spoke to me about the heroin problem and has continued to speak in a very forceful way.

And you can hear where we are here, Mr. Attorney General. Senator Boozman has really outlined how, in some ways, the Federal Government are enablers, from the Post Office to the VA, giving drugs to one group, et cetera. And we've got—this is where the Interagency Task Force needs to happen, and I think sooner rather than later.

Senator Leahy, I know you've spoken on this, and, of course, you're the chair of our Judiciary Committee. We're eager to hear your questions and, again, your—

Senator LEAHY. Well, I—

Chairwoman MIKULSKI [continuing]. Expertise in this area.

Senator LEAHY. Madam Chair, I appreciate what you've said and what Senator Shaheen said earlier about what I've been doing up in Vermont. The Attorney General and I have known each other for a long time, long before he was Attorney General. We've talked about this a great deal.

DRUGS

I saw the article, the other day on the front page of the Post, about where they've tried to—I guess this was in New Jersey—have a program set up so that if somebody is having an overdose and one of the people with the person can call for medical help without being arrested—

Attorney General HOLDER. Right.

Senator LEAHY [continuing]. Themselves. We actually did this in a thing called The Place, in Burlington, Vermont, for 7 or 8 years, back in the late '60s and early '70s, because, as chief law enforce-

ment officer of that county, I could put it off limits. The police agreed with me on that. Somebody could come in, having an overdose, their friends could come in. They just had to empty their pockets of any drugs they had, but nobody would follow up the record. We had young interns and residents at the medical school who volunteered their time to be there, one of whom is now a very noted surgeon in this area.

So, I appreciate what you said. And Senator Shaheen and Senator Boozman and I have talked about this before.

Also, just my—and—well, this is not the issue here today—Senator Murkowski talked about the Senator Stevens case. Just so it doesn't appear to be partisan, I totally agree with her. And you and I discussed that. I applauded your decision to dismiss that case. It should not have been handled the way it was. And I agree with that.

On a happier note, when the Justice Department arrested Sulaiman Abu Ghaith, Osama bin Laden's son-in-law, you received a huge amount of criticism because you had read him his Miranda rights and did not bring him straight to Guantanamo so he might face a military commission and instead you said that America's strong enough, we can use our courts, the best in the world, and brought him to New York. And he was convicted—in fact, I'd much rather be the prosecutor in that case than the defense attorney—and demonstrated that—I think we've had three or four convictions in the military tribunals, we've had several hundred in our Federal courts. So, thank you for doing that. It proved that—proved to the rest of the world, we use our system, it works. And you got a good conviction there. So, I commend you on that.

In Burlington, Vermont, we've implemented a community impact team approach, law enforcement tools for targeting drug traffickers, but also steering addicts to treatment. I would urge you and the Department to continue helping local and State governments in these kinds of programs.

Attorney General HOLDER. Well, that is certainly our intention. It is interesting, I'd like to hear more about The Place and see how that worked. Those are the kinds of locally based, innovative kinds of things that we want to identify. If the evidence shows that they are effective, we want to try to support it. And that's why I think the grant making function of the Justice Department can be so important.

We are working, as best we can, to deal with this epidemic of heroin, the continuing problem of meth. Drugs continue to be a problem for this Nation. The connection between drugs and violence is inescapable. The number of people who are on drugs or have drug-related crimes who are in our prisons is still exceedingly high. And no one should take from this Smart on Crime initiative any sense that we are retreating from our enforcement responsibilities in that regard. All we're trying to do is to come up with ways in which we can be more effective and ultimately knock down the recidivism rate by dealing with people who have drug problems that tend to breed crime.

Senator LEAHY. Well, your excellent U.S. Attorney in Vermont, Tris Coffin, has worked with the local and State, and that's been very helpful, to have the Justice Department so involved.

I—in that regard, I know the Office of Juvenile Justice and Delinquency Prevention, we’ve mentioned, has indicated an intention to change eligibility requirements for grantees on a national mentoring program by requiring they have a presence in just 30 States rather than the current requirement they serve at least 45 States. Obviously, when you’re representing the second-smallest State in the country, I worry—are you going to give priority to national programs that have shown a proven capacity?

Attorney General HOLDER. Yes, we certainly want to support—again, what we want to do is try different things. And, for those things that the evidence shows work, we want to support those. And, to the extent that you have a concern about OJJDP’s perhaps pulling back, that’s something I’d like to talk to you about, or our staffs could talk about, because I don’t want size to be the prime determinant as to how we are apportioning our funds or how we’re using our grant making capability. We want to make sure that, in large cities and in small towns, to the extent that we can, a positive Justice Department presence is there.

IMMIGRATION COURTS

Senator LEAHY. And lastly, if I just might note, Madam Chair, the Nation’s immigration courts are understaffed—you’ve got 32 vacancies, nearly half of the 200 immigration judges eligible for retirement, pending caseload has grown by 50 percent. You’ve requested \$17 million to support an additional 35 immigration judges to help process the backlog of over 350,000 cases. Is this a priority? Because I really worry that we’re going to reach such a tipping point that justice will just be totally denied.

Attorney General HOLDER. Yes. It is a priority. We have made a specific request for those 35 immigration judge teams. We think that that would have the potential to reduce a caseload, I think, of between 20- and 35,000 cases. We have to get at the backlog that exists. We can do that, I think, by coming up with innovative procedures and processes. But, I think, at base, we just simply need more immigration judges, and that’s why we have included in our fiscal year 2015 request those additional funds for those additional teams.

Senator LEAHY. Thank you very much.

Thank you, Madam Chair.

Chairwoman MIKULSKI. And, Senator Leahy, we’re sharing with the Attorney General your idea on how to look at cops on the beat involved in heroin, as well as the interagency.

Senator Graham.

Senator GRAHAM. Thank you, Madam Chairman.

SEX TRAFFICKING

My Reserve unit last night got a briefing from the FBI about 69 task forces that are dealing with crimes of sex trafficking, exploitation of young women, in particular. And I was just really impressed with what I saw. So, I want to come visit and see how can we maximize that. I think the committee would be astonished as to what’s going on out there. At least I was, I’ll just speak for myself. And I just want to commend you on that program.

EFFECTS OF SEQUESTRATION

So, tell us, if you could—in 2016, sequestration kicks back in. Could you walk through, fairly quickly, what does it mean to your Department, future Attorney Generals, to be able to protect this Nation if sequestration is fully implemented, going forward?

Attorney General HOLDER. I can tell you that it will have a devastating impact, as it did over the course of the last couple of years. Since I put into effect a hiring freeze, I guess 3 years or so ago, we lost about 4,000 people, in total, in the Justice Department—about 1,470 attorneys and support staff, 900 attorneys and support staff. We lost 6 percent of the roughly 10,000 lawyers in the Department. The FBI lost over 900 agents, analysts, and other staff. DEA lost 700; ATF, 500; United States Marshals, 300.

Those are pretty daunting numbers, and you can't expect the Justice Department to do the job that the American people want us to do, and that we want to do, if we are faced with that kind of issue again.

I would not wish this upon any of my successors.

Senator GRAHAM. And it gets worse over time, right?

Attorney General HOLDER. Absolutely. We have in place now a budget for the next 2 years that will, I think, help us make up some of the lost ground. But, unless we have, in 2016, a realistic budget that deals with the need—we can't have another flat budget, and we certainly can't go to sequestration—unless we have a budget that increases the amount of money that goes to the Justice Department, we're going to find ourselves in the same place. And, at the end of the day, it's going to have at some point, an effect on performance. It simply will.

Senator GRAHAM. We'll be less safe as a Nation?

Attorney General HOLDER. I think that's absolutely right.

TERRORISM

Senator GRAHAM. Do you agree with me that we're still involved in a war against radical Islam, for lack of a better definition?

Attorney General HOLDER. For lack of a better definition, I would agree with that, yes.

Senator GRAHAM. Okay. And homegrown terrorism is a threat that we have to deal with now? It's probably growing.

Attorney General HOLDER. Absolutely, and it's—

Senator GRAHAM. So, our—

Attorney General HOLDER. It is growing. That is the one that keeps me up at night.

Senator GRAHAM. Yes. Rightly so.

Cyber attacks on this country, we're going to have to get ahead of that. A lot of infrastructure to be built. Do you agree?

Attorney General HOLDER. Yes.

Senator GRAHAM. So, the threats we face are growing, and our budgets are shrinking?

Attorney General HOLDER. That's right.

Senator GRAHAM. Who would have thought of that? The Congress. Okay? Not you. So, I hope the Congress will rethink this and we can, in bipartisan fashion, give some relief to sequestration,

where Republicans give, Democrats give, and we replace it with something that will make sure the country's safe.

Now, back to my favorite topic, how to defend America that's at war. I've always told you that I agree that Article III courts have a very viable role in the war on terror. And you've told me that you believe there's a place for military commissions. Are we still on the same sheet of music?

Attorney General HOLDER. Agreed, yes.

Senator GRAHAM. Okay. Do you agree with me that enemy combatant status being conferred on a potential terrorist suspect is still lawful in this country, and we can hold somebody as an enemy combatant if they meet the criteria?

Attorney General HOLDER. If they meet the criteria, yes, there is a legal basis to do that.

Senator GRAHAM. Okay. Do you agree with me that intelligence-gathering is very important when it comes to stopping potential attacks against the country?

Attorney General HOLDER. I totally agree with that, and we've done so in the use of our Article III system, gathered intelligence from people before we have prosecuted them.

Senator GRAHAM. Okay. Now, how long have we held people at Guantanamo Bay as enemy combatants? Isn't there a group being held for years down there?

Attorney General HOLDER. Yes, I think there are people there for—

Senator GRAHAM. Yes.

Attorney General HOLDER [continuing]. There 10, 11, 12 years.

Senator GRAHAM. So, this idea that bin Laden—we caught him because of waterboarding. People say that's not true. And I'm in that camp. I think we were able to catch bin Laden because we gathered intelligence over a long period of time from people held at Guantanamo Bay, and we put the puzzle together. Do you think that's a fair statement?

Attorney General HOLDER. Yes, I think there were a variety of things that led to the death of bin Laden. Some was intelligence gathered from people who were detained at Guantanamo.

Senator GRAHAM. And some was outside.

Attorney General HOLDER. Some outside.

Senator GRAHAM. Now, here's what I want to make sure you understand. I will support Article III courts, but, Mr. Attorney General, you'll never convince me that the criminal justice system is the best way to gather intelligence in a war. I don't know of any military in the world that uses their criminal justice system to gather intelligence from enemy combatants. They have a military intelligence-gathering process, which is a completely different legal endeavor. Do you agree that gathering intelligence is different than prosecuting?

Attorney General HOLDER. Yes, it is. And it's why the process that we have put together involves the use of the HIG—

Senator GRAHAM. The HIG, yes, good system.

Attorney General HOLDER. We put the HIG in there, they talk—

Senator GRAHAM. Yes.

Attorney General HOLDER [continuing]. To people who we capture. We then put in a whole different team that's responsible for the trial of the case.

Senator GRAHAM. Okay. Convictions are great. I'm more worried about finding, from that suspect, what the enemy's up to. The trial is important. The son-in-law of bin Laden, how long was he interrogated before his Miranda rights were read?

Attorney General HOLDER. I believe about a week or so. I'm not sure about that.

Senator GRAHAM. I think it's hours, not days.

Attorney General HOLDER. All right. Well, I'm not—

Senator GRAHAM. And here—

Attorney General HOLDER [continuing]. I'd have to—

Senator GRAHAM. Right.

Attorney General HOLDER [continuing]. Get you a more—

Senator GRAHAM. Here's my only point. I think the Article III trial was the right venue for him. Here's where we differ. If we keep criminalizing the war—when we capture these guys, if we don't hold them for a period of time to gather intelligence, and put them right into the criminal justice system, I believe we're missing great opportunities to find out what the enemy's up to, because I personally believe that once you Mirandize someone and give them a lawyer, it is much harder to gather intelligence than it would be if you let your military and CIA officers lawfully—not torture—gather intelligence.

So, I just hope that you'll be sensitive to this, because I think we're giving up intelligence-gathering opportunities by putting people in court right off the bat. And it makes it more likely we get attacked if we go down criminalizing the war. That's just my two cents' worth.

Attorney General HOLDER. Well, I think our experience has shown—and I think, in some ways, it's surprising—that once we come into contact with these people, and even after they're given their rights, there is still, for whatever reason, a desire on their part to talk, and they waive their rights, frequently, and speak with us, and we've had, I think, very fruitful interactions, where we have gathered usable intelligence in the Article III setting. People, I think, tend to forget that—I have sent people to the military commissions. I think we have to have both. But, I don't think we should shy away from using a system that is tried and true—

Senator GRAHAM. I—

Attorney General HOLDER [continuing]. And that I think has—

Senator GRAHAM. I'm way over my time. I couldn't agree—

Chairwoman MIKULSKI. You are.

Senator GRAHAM [continuing]. With you more. I just want to make sure that, before we put them in the military commission and Article III courts, that we try to gather as much intelligence as possible, lawfully, before we try them. That's all I'm saying.

Attorney General HOLDER. And look—and that's what we try to do.

Chairwoman MIKULSKI. Mr. Attorney General, we thank you for your testimony today. And, as you could see, this is a pretty smart, aggressive committee, and—but, most of all, where we're—we really want to work across the aisle and, really, protecting our people,

starting first of all with the Constitution. So, we want to protect the Constitution, we want to protect the people against all enemies, foreign and domestic. And that means the scam and scum who prey on people with greed, like mortgage fraud, all the way up to these despicable acts of terrorism. You've got a big job, and we wish you had a bigger budget, but we're going to take a good look at it and see how we can support you.

Yes.

Attorney General HOLDER. I just—maybe I could say just one thing, and that is a thank you to this committee and to the Chair, as well as Senator Shelby. We had dark days in 2013, and the flexibility that you allowed us with regard to moving money around meant that people at the Justice Department did not have to be furloughed, it meant that people had the basic ability to pay mortgages, to keep their kids in school, to buy groceries. It allowed the Justice Department to do its job, under very trying circumstances. We would not have been able to do that without the flexibility that you gave us.

So, on behalf of the 113,000 men and women of the Justice Department, I want to thank you—this committee generally, but you two specifically—for that flexibility.

Chairwoman MIKULSKI. Well, really, we could not have done it had we not worked on a bipartisan partnership and, really, with our colleagues in the House, Congressmen Rogers and Lowey. But, this is where we're trying to say, we're here—we're all in it together. We all take the same oath to the Constitution and to protect it. And so, we thank you for that. And you're in the front lines, and we're going to worry about the bottom lines.

So, we're going to excuse you now and say that if there are questions related to the Attorney General, the record will be open, and we—

Senator SHELBY. Madam Chair.

Chairwoman MIKULSKI [continuing]. Ask them to respond in 30 days.

We're going to go to the Inspector General now.

Senator Shelby.

Senator SHELBY. Madam Chair, I have several questions for the record for the Attorney General, but I'm sure others do, too.

Chairwoman MIKULSKI. Yes. So, the Senator's right will be protected, as are others.

We're really doing these 60 hearings in 6 weeks, so there are many who wanted to come, but couldn't. So, there'll be additional questions.

Thank you very much, Mr.—

Attorney General HOLDER. Thank you.

Chairwoman MIKULSKI [continuing]. Attorney General.

So, we now call upon the Inspector General, Michael Horowitz.

Mr. Horowitz, we're glad to see you, and we're glad a changing in the vote schedule allows us to take your testimony in person. Both Senator Shelby and I are vigorous supporters of the Inspector General system, and we look forward to your testimony and your advocacy here.

Please proceed, sir.

STATEMENT OF HON. MICHAEL E. HOROWITZ, INSPECTOR GENERAL

Mr. HOROWITZ. Thank you, Madam Chairwoman and Ranking Member Shelby, members of the subcommittee. Thank you for inviting me to testify today, and for your continued strong support of our work.

It would be hard for me to overstate the importance of having an appropriated budget this fiscal year that we can plan around and that will enable us to rebuild our staff, which shrunk by nearly 10 percent over the past 2 years. Moreover, removing furlough and shutdown threats provides a much-deserved boost to the morale of our staff, which has steadfastly performed at an extraordinarily high level over the past 2 years.

Since my appearance before you last June, our office has issued numerous reports that have important implications for the Department's budget and that promote transparency and increased efficiency. Just last month, for example, we reported on the Department's efforts to address mortgage fraud, we examined the operations of the Organized Crime Drug Enforcement Task Force Fusion Center, we audited the FBI's management of Terrorist Watch List nominations, and we reported on the Federal Bureau of Prisons' efforts to improve acquisitions through strategic sourcing, and we continue to conduct extensive oversight of the Department's cyber security efforts and its national security initiatives.

For example, we are reviewing the FBI's implementation of its next-generation cyber initiative, as well as the FBI's regional computer forensic laboratories. We are reviewing, with three other inspector generals, the U.S. Government's handling and sharing of intelligence information leading up to the Boston Marathon bombing. We also continue our efforts to ensure that allegations from whistleblowers are reported, investigated, and handled appropriately.

I'm proud that our efforts were recently recognized with certification from the Office of Special Counsel. We will continue to foster an open and effective environment for whistleblowers to come forward with information about waste, fraud, abuse, and misconduct.

Late last year, in our Annual Top Management Challenges Report, we identified six areas where the Department is facing major challenges: addressing the crisis in the Federal prison system, protecting taxpayer funds from mismanagement and misuse, enhancing cyber security, safeguarding national security consistent with civil rights and civil liberties, ensuring effective and efficient law enforcement, and restoring confidence in the integrity, fairness, and accountability of the Department. I'd like to highlight the first two of those areas today.

The crisis in the Federal prison system continues today. During my testimony before this subcommittee last year, I discussed at length two interrelated crises in the Federal prison system. The first is that costs continue to consume an ever-larger share of the Department's budget, with no evidence that the cost curve has been broken. For example, the BOP's budget continues to increase over the last 2 years at an even faster rate than the Department's budget. Moreover, while the number of Department employees has decreased since fiscal year 2012, the number of BOP employees has increased during that same time. As a result, one out of every

three Department employees now works for the BOP. In the past year, the Department has announced several new initiatives to address this challenge, but much will depend on the success of their implementation, which we will, of course, monitor.

In connection with this challenge, the Department must consider its growing number of elderly inmates. From fiscal year 2010 to fiscal year 2013, the population of BOP inmates over age 65 increased by 31 percent, while the population of inmates 30 or younger decreased by 12 percent. This demographic trend has significant budgetary implications, because older inmates have higher healthcare costs and are more expensive to incarcerate. The OIG is currently conducting a review in this important area.

The other half of the prison crisis, which was discussed earlier today, is ensuring the safety and security of staff and inmates in overcrowded Federal prisons. Despite having a nearly \$7 billion budget as of November 2013, the BOP was operating its facilities at approximately 36 percent over rated capacity. Moreover, the BOP's inmate-to-staff—inmate-to-correctional-officer ratio has remained at approximately 10 to 1 for more than a decade. In comparison, in 2005 the five largest State correctional systems had no more than an inmate-to-correctional ratio of over 6 to 1. Thus, not only must the Department evaluate the BOP's cost structure, it must also find ways to address capacity and staffing challenges.

Avoiding wasteful and ineffective spending is another fundamental responsibility of Federal agencies in any budgetary environment, but it's particularly important in the current climate. In 2013, the OIG reports identified more than \$35 million in questioned costs and more than \$4 million in taxpayer funds that could have been put to better use. The Department must remain vigilant on the monies it gives to third parties, whether contractors or grants, and make sure that they demonstrate that the money—the value that's being received is worth the money that's being given out.

Let me turn briefly now to two areas of our effectiveness that I'd like to address. Providing strong and independent oversight of the IG's—of the ability of the IG to oversee the Department is critical. For any oversight agency to be conducted effectively, we must have complete and timely access to all records in our agency's possession that we deem relevant to our ongoing reviews. This is the principle Congress codified in Section 6 of the IG Act. Most of our audits and reviews are conducted with full and complete cooperation from the Department. However, there have been occasions when our office has had issues arise with timely access to certain records due to the Department's view that access was limited by other laws. Ultimately, in each instance, the Attorney General or the Deputy Attorney General provided the OIG with permission to receive the materials, and they have made it clear they will continue to do so, as necessary, going forward.

However, requiring an Inspector General to request and receive permission from Department leadership in order to review critical documents impairs our independence and can delay our work unnecessarily. Stated simply, under the Inspector General Act, an Inspector General should be given prompt access to all relevant documents within the possession of the agency it is overseeing.

Let me turn briefly to an issue, finally, that was discussed during my testimony before you last June. Unlike Inspectors General throughout the Federal Government, our office does not have the authority to investigate alleged misconduct by lawyers in the Department. In those instances, the Inspector General Act grants exclusive investigative authority to the Department's Office of Professional Responsibility. My office has long questioned the distinction between the treatment of agents who engage in alleged misconduct and those of Department attorneys. Last month, the independent, nonpartisan Project on Government Oversight issued a report that was critical of the OPR's lack of transparency, and recommended that Congress empower our office to investigate misconduct by DOJ attorneys.

PREPARED STATEMENT

Our office's statutory and operational independence from the Department ensures the integrity of our investigations and that they occur through a transparent and publicly accountable process. Giving the OIG the ability to exercise jurisdiction on all attorney misconduct cases, just as it does in matters involving non-attorneys, would enhance the public's confidence in the outcomes of these important investigations and provide our office with the same authority as every other Inspector General.

Thank you again. I look forward to working with the subcommittee, and I look forward to answering your questions.

[The statement follows:]

PREPARED STATEMENT OF HON. MICHAEL E. HOROWITZ

Chairwoman Mikulski, Senator Shelby, and members of the subcommittee:

Thank you for inviting me to testify at today's hearing on the Department of Justice's (Department or DOJ) fiscal year 2015 budget request. At the outset, I want to thank the subcommittee for its continued strong support of our work. Perhaps the biggest challenge I have had in my 2 years as Inspector General has been trying to manage the staffing and budget for our 400-plus person agency as we faced, seemingly every few months, another budget crisis, with ever-present threats of furloughs and shutdowns. It would be hard for me to overstate the importance of having an appropriated budget for this current fiscal year that we can now plan around. Our current budget will enable us to rebuild our staff, which has shrunk by nearly 10 percent over the past 2 years, thereby enhancing our ability to conduct oversight of the Department. Our fiscal year 2015 budget request is relatively straightforward—we are seeking funding at our current base level of \$86.4 million, plus \$2.2 million in adjustments to base to cover, for example, rent increases and other inflationary costs.

Having a budget, and removing the furlough and shutdown threats, also provides a much-deserved boost to morale among Office of the Inspector General (OIG) employees, who have remained admirably dedicated to the office's mission despite the significant budget uncertainty of the past few years. As we prepare later this month to mark the 25th anniversary of our office's creation in April 1989, I am confident that we are an organization capable of conducting the high quality, independent oversight that Congress mandated so many years ago.

In my testimony today, I would like to highlight some examples of our recent and ongoing oversight work, discuss two significant challenges facing the Department that will impact its fiscal year 2015 budget, and briefly comment on two legislative initiatives that I believe would materially enhance the OIG's ability to conduct timely and independent oversight.

RECENT DOJ OIG OVERSIGHT OF THE DEPARTMENT'S OPERATIONS

Our office has issued numerous reports since my appearance before the subcommittee last June that have important implications for the Department's budget, and that promote transparency, increase efficiency, and enhance our national secu-

riety. The findings from four reports that we issued in just the last month exemplify these results. First, our audit of the Department's efforts to address mortgage fraud identified examples of DOJ-led efforts to prioritize the investigation and prosecution of mortgage fraud cases, but also found that, despite having been appropriated significant funding for the purpose, DOJ and the Federal Bureau of Investigation (FBI) did not uniformly ensure that mortgage fraud was prioritized at a level commensurate with its public statements. The OIG also found significant deficiencies in DOJ's and the FBI's ability to report accurately on its mortgage fraud efforts. Second, our report examining the operations of the Organized Crime Drug Enforcement Task Forces (OCDETF) Fusion Center (OFC) found deficiencies in the OFC's operations that could limit its contribution to the OCDETF Program's effectiveness in dismantling significant drug trafficking and money laundering organizations. We also found that OFC management took actions during our review that created difficulties for the OIG in obtaining information from OFC employees, and that there were reasonable grounds to believe that two OFC employees who met with us to describe concerns they had about the OFC's operations were subsequently subjected to adverse retaliatory personnel actions. Third, our follow-up report on the FBI's management of terrorist watchlist nominations found that the FBI's time requirements for the submission of watchlist actions could be strengthened and identified weaknesses in the database used by the FBI to submit, monitor, and track non-investigative subject nominations. Finally, our report on the Federal Bureau of Prisons' (BOP) efforts to improve acquisition through strategic sourcing found that while the BOP had established national contracts and blanket purchase agreements, it had not established a program to implement and oversee the General Services Administration's (GSA) Federal Strategic Sourcing Initiative or other Federal strategic sourcing initiatives, and thus may be missing an opportunity for greater cost savings.

Reviews completed at the end of the last fiscal year were similarly important. In September, we issued a report on the Bureau of Alcohol, Tobacco, Firearms and Explosives' (ATF) income-generating undercover operations in which we found that ATF did not properly authorize, manage, or monitor these investigations, misused their proceeds, and failed to properly account for 2.1 million cartons of cigarettes that were associated with these investigations, the retail value of which was more than \$127 million. Also in September, we issued an interim report on the Department's use and support of unmanned aircraft systems (UAS), often referred to as "drones," in which we found that the technological capabilities of drones—such as their ability to fly for extended periods of time and maneuver effectively yet covertly around residences—and the current, uncoordinated approach of Department components to using UAS may merit the Department developing consistent UAS policies to guide their use. Notably, that report also found that two of the Department's grantmaking components had failed to require award recipients to report specific data necessary to measure the success of UAS testing, or to share the results of their programs with the Department.

In addition, we continue to conduct extensive oversight of the Department's efforts to combat significant crime issues, such as cyber security, and its national security initiatives. For example, we have initiated a review of the FBI's implementation of its Next Generation Cyber Initiative and a review of the FBI's Regional Computer Forensic Laboratories, among two of the Department's most important efforts to respond to the serious, rapidly evolving threat posed by cyber criminals. On national security issues, we are reviewing, with three other Inspectors General, the U.S. Government's handling of intelligence information leading up to the Boston Marathon bombings. This review is examining the information available to the U.S. Government before the bombings and the information-sharing protocols and procedures followed between and among the intelligence and law enforcement agencies. We also are continuing our reviews of the FBI's use of National Security Letters (NSL), requests for business records under Section 215 of the *Foreign Intelligence Surveillance Act* (FISA), the Department's use of pen register and trap-and-trace devices under FISA, and the Department's use of the material witness warrant statute, 18 U.S.C. § 3144. We are also continuing our review of the Federal Witness Security Program and will evaluate the Department's progress in implementing corrective measures in response to the recommendations contained in the interim report, which we discussed during my appearance before the subcommittee last June.

In addition, our Investigations Division's case load continues unabated: during fiscal year 2013, it received more than 12,000 complaints, had dozens of arrests and convictions resulting from corruption and fraud cases, and investigated allegations that resulted in more than 250 administrative actions against Department employees.

Finally, before turning to our assessment of the challenges facing the Department, I would like to give you a brief update on our efforts to ensure that allegations

against whistleblowers are reported, investigated, and handled appropriately. Among other initiatives, last year we developed an education program on whistleblower rights and protections for our employees, posted informational posters at our offices, and created a section on our public Web site containing information about whistleblower rights for employees throughout the Department. I am proud to report that we were recognized for our efforts last year with certification from the Office of Special Counsel under 5 USC §2302(c). Additionally, we continue to lead a working group of Federal Whistleblower Ombudspersons that we helped launch through the Council of Inspectors General on Integrity and Efficiency (CIGIE). I will continue to increase awareness among my staff and provide the training and reporting mechanisms necessary to foster an open and effective environment for whistleblowers to come forward with information about waste, fraud, abuse, and misconduct within the Department.

FUTURE WORK AND TOP CHALLENGES FACING DOJ

Let me turn now to the issues that we feel represent significant challenges facing the Department of Justice in 2014, and will impact its budget in the coming fiscal year.

In December 2013, we identified the following six major challenges for the Department:

- Addressing the Crisis in the Federal Prison System;
- Safeguarding National Security Consistent with Civil Rights and Liberties;
- Protecting Taxpayer Funds from Mismanagement and Misuse;
- Enhancing Cybersecurity;
- Ensuring Effective and Efficient Law Enforcement; and
- Restoring Confidence in the Integrity, Fairness, and Accountability of the DOJ.

I would like to highlight for the subcommittee two challenges with potentially significant impacts on the Department's budget, and on its operational efficiency and effectiveness. A detailed discussion of our assessment of each challenge is available on in the "Top Challenges" section of our Web site, <http://www.justice.gov/oig>.

The Crisis in the Federal Prison System Continues

During my testimony before the subcommittee last year, I discussed at great length the two interrelated crises the Department is facing regarding the Federal prison system. The costs of the Federal prison system continue to escalate, consuming an ever-larger share of the Department's budget. In an era of flat budgets, the continued growth of the prison system budget poses a threat to the Department's other critical programs—including those designed to protect national security, enforce criminal laws, and defend civil rights. Second, Federal prisons are facing a number of important safety and security issues, including, most significantly, that they have been overcrowded for years. Meeting this challenge will require a coordinated, Department-wide approach in which all relevant Department components participate in helping to reduce the costs and crowding in our prison system.

The Department's leadership has acknowledged that rising prison costs threaten the Department's ability to fulfill its mission in other areas. Yet the costs of the Federal prison system continue to grow, with no evidence that the cost curve has been broken. For example, even though the Department's discretionary budget increased slightly from fiscal year 2012 to fiscal year 2014, the BOP's budget once again increased at an even faster rate, resulting in the BOP's share of the Department's budget continuing to grow. Moreover, while the number of Department employees has actually decreased since fiscal year 2012, the number of BOP employees has increased during that same time. As a result, the BOP now has over 38,000 employees, or approximately one-third (33 percent) of all the employees at the Department.

To its credit, in the past year the Department has announced several new initiatives to address this issue, such as an initiative to limit the number of defendants charged under statutes carrying mandatory minimum sentences, and the Smart on Crime initiative, which sets out five principles designed to identify reforms to enforce Federal laws more fairly and efficiently. Efforts to better align the investigative and prosecutive policies that drive incarceration costs with the Department's current budget situation represent important steps toward addressing rising Federal prison costs, but much will depend on the success of their implementation.

The Department must also ensure that it is identifying and addressing the growing challenges that will affect the Federal prison budget in coming years. One ongoing challenge is BOP's management of its private prison contracts, which is the subject of an ongoing OIG review. Another such challenge is the increasing number of elderly inmates. From fiscal year 2010 to fiscal year 2013, the population of inmates

over the age of 65 in BOP-managed facilities increased by 31 percent, from 2,708 to 3,555, while the population of inmates 30 or younger decreased by 12 percent, from 40,570 to 35,783. This demographic trend has significant budgetary implications for the Department because older inmates have higher medical costs. The National Institute of Corrections has estimated that elderly inmates are roughly two to three times more expensive to incarcerate than their younger counterparts. For example, according to BOP data, in fiscal year 2011, the average cost of incarcerating a prisoner in a BOP medical referral center was \$57,962 compared with \$28,893 for an inmate in the general population. Moreover, inmate health services costs are rising: BOP data shows that the cost for providing health services to inmates increased from \$677 million in fiscal year 2006 to \$947 million in fiscal year 2011, a 40 percent increase. The OIG is currently reviewing the trends in the BOP's aging inmate population, the impact of incarcerating a growing population of aging inmates, the effect of aging inmates on the BOP's incarceration costs, and the recidivism rate of inmates age 50 and older who were recently released.

Managing the cost of the Federal prison system is just part of the Department's challenge; it must also ensure the safety of staff and inmates in Federal prison and detention facilities. This task has been made exponentially harder by the prolonged, system-wide overcrowding in BOP's correctional facilities: as of November 2013, the BOP was operating with its facilities at approximately 36 percent over rated capacity, with medium security facilities operating at approximately 45 percent over rated capacity and high security facilities operating at approximately 51 percent over rated capacity.

The growth of the inmate population, along with the Department's tightened budget situation in recent years, has prevented the BOP from reducing its inmate-to-correctional officer ratio, which has remained at approximately 10-to-1 for more than a decade. In comparison, the Congressional Research Service reported that among the five largest State correctional systems in 2005—California, Texas, New York, Florida, and Georgia—the highest ratio of inmates to correctional officers was just over 6-to-1. And importantly, overcrowding at BOP institutions is not just a problem for the BOP; it also has a significant impact on the U.S. Marshals Service (USMS), which is responsible for housing pre-trial detainees and is projected to detain an average of 62,131 individuals per day in fiscal year 2014, a 15-percent increase since fiscal year 2004. The USMS estimates that the BOP will only be able to house approximately 18 percent of USMS detainees, meaning that the USMS must pay to house the remainder—an average of about 50,000 detainees per day—in approximately 1,100 State, local, or private facilities.

There are several other important safety and security issues at Federal prison and detention facilities that the OIG is monitoring carefully. For example, the *Prison Rape Elimination Act of 2003* (PREA) expanded the Department's responsibility to prevent the sexual abuse of inmates in BOP facilities and detainees in the custody of the USMS. The OIG's agents have long been involved in leading investigations of staff on inmate sexual misconduct, resulting in numerous criminal convictions and administrative actions by the BOP and the USMS. PREA also required the Department to issue national standards for preventing, detecting, reducing, and punishing sexual abuse in prison, which it did in May 2012. With national standards in place, the Department must ensure that those standards are being met, which will require careful oversight of BOP, USMS, and Federal contract facilities, including residential reentry centers, and an extensive program for compliance auditing. The OIG intends to monitor the Department's efforts to ensure that the national standards are met.

DOJ Must Continue its Efforts to Protect Taxpayer Funds from Mismanagement and Misuse

Avoiding wasteful and ineffective spending is a fundamental responsibility of Federal agencies in any budgetary environment, but in the current climate of budget constraints the Department needs to take particular care to ensure that it is operating as efficiently and effectively as possible. The OIG's recent oversight work has demonstrated the challenges facing the Department. In fiscal year 2013 alone, the OIG's reports, including those related to audits performed by independent auditors pursuant to the *Single Audit Act*, identified more than \$35 million in questioned costs and more than \$4 million in taxpayer funds that could be put to better use.

The Department must remain particularly vigilant when taxpayer funds are distributed to third parties, such as grantees and contractors. In part due to the sheer volume of money and the large number of recipients involved, grant funds present a particular risk for mismanagement and misuse: according to the USASpending.gov Web site, from fiscal year 2009 through fiscal year 2013 the Department awarded

approximately \$17 billion in grants to thousands of governmental and non-governmental recipients.

These risks were evident in a recent OIG audit which questioned nearly all of the more than \$23 million in grant funds awarded by the Department to Big Brothers Big Sisters of America (BBBSA), which resulted in the Department's Office of Justice Programs (OJP) deciding to freeze the disbursement of all grant funds to BBBSA. Even so, it is my understanding that BBBSA subsequently submitted an application to the Department of Labor for grant funds and was awarded a grant totaling \$5 million. This situation demonstrates the importance of ensuring that there is appropriate information sharing between grant-making agencies across the Federal Government.

The Department has reported taking important steps toward improving its management of this vast and diverse grantmaking effort. For example, the Associate Attorney General's Office established a Grants Management Challenges Workgroup that is responsible for developing consistent practices and procedures in a wide variety of grant administration and management areas. In January 2012, the Department issued policy and procedures the workgroup developed to implement the Department-wide high risk grantee designation program, which allows the Department to place additional restrictions on the use of funds it provides to grantees who, for example, are deemed financially unstable or have failed to conform to the terms and conditions of previous awards. The Department should continue to be aggressive in identifying high risk grantees and placing appropriate restrictions on their funds—or halting their funding altogether. It should also use the other tools at its disposal to mitigate the risk of releasing funds to grantees, such as ensuring that grantees have adequate accounting procedures in place to track their use of Department funds and actively seeking suspension and debarment of grantees in appropriate cases, especially where doing so will help to protect grant funds administered by other Federal agencies.

STRENGTHENING THE INDEPENDENT OVERSIGHT OF THE DOJ

Providing strong and effective independent oversight over agency operations is at the core of any OIG's mission. The taxpayers rightly expect much from Inspectors General, and it is important that we have the necessary tools to allow us to conduct our significant oversight responsibilities. The Inspector General Act provides us with many of those tools. However, there are several areas where our ability to conduct effective and independent oversight can be strengthened. I would like to highlight for you today two such areas that directly affect the work of the DOJ OIG.

Access to Documents Relevant to OIG Reviews

For any OIG to conduct effective oversight, it must have complete and timely access to all records in the agency's possession that the OIG deems relevant to its review. This is the principle codified in Section 6(a) of the Inspector General Act, which authorizes Inspectors General "to have access to all records, reports, audits, reviews, documents, papers, recommendations or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act." This principle is both simple and important, because refusing, restricting, or delaying an OIG's access to documents may lead to incomplete, inaccurate, or significantly delayed findings or recommendations, which in turn may prevent the agency from correcting serious problems in a timely manner.

Most of our audits and reviews are conducted with full and complete cooperation from Department components and with timely production of material. However, there have been occasions when our office has had issues arise with timely access to certain records due to the Department's view that access was limited by other laws. For example, issues arose in the course of our review of Operation Fast and Furious regarding access to grand jury and wiretap information that was directly relevant to our review. Similar issues arose during our ongoing review of the Department's use of Material Witness Warrants. Ultimately, in each instance, the Attorney General or the Deputy Attorney General provided the OIG with permission to receive the materials because they concluded that the two reviews were of assistance to them. The Attorney General and Deputy Attorney General have also made it clear that they will continue to provide the OIG with the necessary authorizations to enable us to obtain records in future reviews, which we of course appreciate. However, requiring an Inspector General to rely on permission from Department leadership in order to review critical documents in the Department's possession impairs the Inspector General's independence and conflicts with the core principles of the Inspector General Act.

We have had similar issues raised regarding our access to some other categories of documents. And I understand from the Inspector General for the Peace Corps that her office has had a similar issue regarding access to records within her agency. Although our office has not yet had an instance where materials were ultimately withheld from us that were necessary to complete a review, we remain concerned about the legal questions that have been raised and the potential impact of these issues on our future reviews. Moreover, issues such as these have, at times, significantly delayed our access to documents, thereby substantially impacting the time required to complete the reviews.

My view, and I believe the view of my colleagues in the Inspector General community, is straightforward and follows from what is explicitly stated in the Inspector General Act: an Inspector General should be given prompt access to all relevant documents within the possession of the agency it is overseeing. For a review to be truly independent, an Inspector General should not be required to obtain the permission or authorization of the leadership of the agency in order to gain access to certain agency records, and the determination about what records are relevant and necessary to a review should be made by the Inspector General and not by the component head or agency leadership. Such complete access to information is a cornerstone of effective independent oversight.

Limitations on the DOJ OIG's Jurisdiction

Let me briefly turn to an issue that was discussed during my testimony last June before this subcommittee, which is an oversight limitation that is unique to my office: unlike Inspectors General throughout the Federal Government, our office does not have authority to investigate all allegations of misconduct within the agency we oversee. While we have jurisdiction to review alleged misconduct by non-lawyers in the Department, under Section 8E of the Inspector General Act, we do not have the same jurisdiction over alleged misconduct committed by Department attorneys when they act in their capacity as lawyers—namely, when they are litigating, investigating, or providing legal advice. In those instances, the Inspector General Act grants exclusive investigative authority to the Department's Office of Professional Responsibility (OPR). As a result, these types of misconduct allegations against Department lawyers, including those that may be made against the most senior Department lawyers (including those in leadership positions) are handled differently than misconduct allegations made against law enforcement agents or other Department employees.

My office has long questioned this distinction between the treatment of misconduct by attorneys acting in their legal capacity and misconduct by other Department employees. Such a system cannot help but have a detrimental effect on the public's confidence in the Department's ability to review misconduct by its own attorneys. In recent months, others have expressed a similar concern. For example, the independent, non-partisan Project on Government Oversight (POGO) issued a report last month that was critical of OPR's longstanding lack of transparency and recommended empowering our office to investigate misconduct by DOJ attorneys. And I would like to thank Senator Murkowski for co-sponsoring S.2127, a bipartisan bill that would amend the Inspector General Act to enable our office to investigate allegations of attorney misconduct.

The jurisdictional limitation on our office is a vestige of the fact that OPR preexisted the creation by Congress in 1988 of the DOJ OIG, resulting in the statutory carve-out on our jurisdiction. The Department has consistently taken the position that because OPR has specialized expertise in examining professional conduct issues involving Department lawyers, OPR should handle professional misconduct allegations against Department attorneys. Whatever merit such an argument may have had in 1988 when the OIG was established by Congress, it is surely outdated.

Over the past 25 years, our Office has shown itself to be capable of fair and independent oversight of the Department, including investigating misconduct allegations against its law enforcement agents. Indeed, a similar argument was made many years ago by those who tried to forestall our Office's oversight of alleged misconduct by FBI agents. This argument against Inspector General oversight of the FBI was rejected, and we have demonstrated through the numerous investigations and reviews involving Department law enforcement matters since then, including our Operation Fast and Furious review, that our office has the means and expertise to handle the most sophisticated legal and factual issues thoroughly, effectively, fairly, and independently. Moreover, Inspectors General across the Federal Government have the authority to handle misconduct allegations against lawyers acting as such within their agencies, and they have demonstrated that they are fully capable of dealing with such matters. Seen in this context, the carve-out for OPR from our Office's oversight jurisdiction is best understood as an unnecessary historical artifact.

Eliminating the jurisdictional exception for OPR in the Inspector General Act would ensure the ability of our Office to fully review and, when appropriate, investigate allegations of misconduct of all Department employees. Moreover, even with such a jurisdiction change, the Department's OPR would almost certainly remain in place to handle "routine" misconduct allegations that do not require independent outside review by an OIG, much as the internal affairs offices at the FBI and the Department's other law enforcement components remain in place today even though the OIG's jurisdiction was expanded years ago to include those components. The current system with the law enforcement components works well, particularly given the OIG's limited resources. Each day, the OIG reviews new allegations of misconduct involving law enforcement personnel and determines which ones warrant investigation by an independent OIG, such as those that involve high-level personnel, those that involve potential crimes and other serious misconduct, and those that involve significant issues related to conduct by management. Those that we determine do not meet these standards are returned to the law enforcement component's internal affairs unit for handling, although the OIG frequently requires the internal affairs unit to report back to the OIG on the outcome of its investigation or review.

Our Office's statutory and operational independence from the Department ensures that our investigations of alleged misconduct by Department employees occur through a transparent and publicly accountable process. Unlike the head of OPR, who is appointed by the Attorney General and can be removed by the Attorney General, the Inspector General is a Senate confirmed appointee who can only be removed by the President after notification to Congress, and the Inspector General has reporting obligations to both the Attorney General and Congress.

Giving the OIG the ability to exercise jurisdiction in all attorney misconduct cases, just as it does in matters involving non-attorneys throughout the Department, would enhance the public's confidence in the outcomes of these important investigations and provide our office with the same authority as other Inspectors General.

CONCLUSION

Due in large part to the continued support of this subcommittee, fiscal year 2013 represented a strong and productive year for the OIG, which we are continuing in fiscal year 2014. I look forward to working closely with this subcommittee to ensure that our office can continue its vigorous oversight through fiscal year 2015 and beyond.

This concludes my prepared statement. I would be pleased to answer any questions that you may have.

Chairwoman MIKULSKI. Thank you, Mr. Horowitz. You and your team do such a great job.

And, tell me, how many employees do you have?

Mr. HOROWITZ. We have on board now about 405, roughly.

Chairwoman MIKULSKI. And what is your budget?

Mr. HOROWITZ. \$86.4 million is our base, and we've asked for that for the next fiscal year, plus 2.2 million in enhancements.

Chairwoman MIKULSKI. So, it would be 2.2 million more.

Mr. HOROWITZ. Correct.

Chairwoman MIKULSKI. Is that correct? Well, we ask you to do a very important job overseeing \$37 billion.

CYBER SECURITY IMPROVEMENTS

I know Senator Shelby will be raising questions about access to records. I want to welcome your insights on prison reform, but I'm going to go to cyber security. It's an area of keen interest with me—

Mr. HOROWITZ. Yes.

Chairwoman MIKULSKI [continuing]. And have been an advocate. And one of the things I fear is techno-boondoggles.

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI. You know, we go through the FBI case file thing. Now, we understand the FBI—excuse me, the fiscal '15

budget request from Justice is 722 million. They're actually decreasing it, though the threat is increasing. You note that—you cite 130 open recommendations for improving the security of the Department's own IT system. Could you comment on what you think are—where you think appropriate in an open and public session, so we don't tip any bad guys, here—

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI [continuing]. What you think they need to do to improve their cyber security. And do you think it's money, do you think it's management, or do you think it's a government wide problem?

Mr. HOROWITZ. Our—

Chairwoman MIKULSKI. I have my own views. I would like to hear yours, sir.

Mr. HOROWITZ. Yes. Our 130 recommendations come from our FISMA audits, which are obviously marked sensitive, given the nature of the information, but generally they have involved the handling of configurations of systems and account management of those systems, as well. We've made a number of very specific requests, and have outlined the issues that I think need to be addressed. I think, generally, it is a function of both the needs—additional needs, potentially, for the systems, as well as the possibility of the requirement for additional personnel. We, ourselves, for example, are struggling with both of those issues, as well, in a tightening budget environment, making sure we've got the right IT people, as well as enough funding for the right systems. And so, that's one of the things I've tried to do with our budget this year, is catch up, essentially, from where we fell behind over the last 2 years.

Chairwoman MIKULSKI. Do you feel that the Justice Department is prime time in implementing your recommendations?

Mr. HOROWITZ. I think that, in a number of areas, the Department needs to do a better job in implementing the recommendations we make faster, and going and looking at them seriously and taking them seriously. We continue to push on that. The Attorney General and the Deputy Attorney General, have supported that effort, and we will continue to press on that.

Chairwoman MIKULSKI. So, you feel you have the support. So, again, I'll come back, is it a resource issue? Is it a consistent resource issue? Senators Shelby, Graham, others, have raised, you know, sequester—

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI [continuing]. Closed—you know, slam down and shut down, furloughs. What's the issue, here? We can't hire tech people?

Mr. HOROWITZ. I think it's probably a combination of both issues that you identified, that the needs continually change, they're continually evolving, technology is continually evolving, the threats are continually evolving; and that's one of the reasons, frankly, we've undertaken the next cyber initiative review, because Congress has given a substantial amount of money to the Department to undertake that effort, and that is a very significant part of the Department's budget and a critical part of dealing with threats, going forward.

Chairwoman MIKULSKI. Well, thank you.

We could ask more, but I'm going to turn to Senator Shelby, here.

Senator SHELBY. Thank you.

Thank you, Mr. Inspector General. We appreciate the work you're doing, your dedication. And, as the Chairman said, we want to make sure you have the tools to do your job, because the Inspector General, whether it's in the Justice Department, whether it's in the Pentagon, or whether the—we created that position for a reason—

Mr. HOROWITZ. Right.

Senator SHELBY [continuing]. And so forth. You know this well.

INSPECTOR GENERAL ACCESS

Do you believe that you, the Inspector General of the Department of Justice, should have to seek approval of the Attorney General to access grand jury documents, or any documents, relevant to ongoing investigations?

Mr. HOROWITZ. I don't, Senator. It's inconsistent, in my view, with the—

Senator SHELBY. With your mandate, is it?

Mr. HOROWITZ. Correct. And the—with the Inspector General—

Senator SHELBY. Because, even though it's the Justice Department, but it could be any Department—

Mr. HOROWITZ. Right.

Senator SHELBY [continuing]. If you have to go to the head of the Department, the Secretary—

Mr. HOROWITZ. Right.

Senator SHELBY [continuing]. For example, a Cabinet-level position, to approve what you're seeking, it seems that could be, under dire circumstances, an impediment to doing your job.

Mr. HOROWITZ. Well, and ultimately—that's correct—and ultimately, the letters that we've gotten from the Attorney General or the Deputy Attorney General—

Senator SHELBY. Yes.

Mr. HOROWITZ [continuing]. Giving us access have focused on a finding that the review was important to their oversight of the Department. The Act sets it up such a way that the oversight decisions, I think, should be made by Inspectors General, not by the Secretaries or Cabinet hats.

Senator SHELBY. Have you been, basically—have you had unfettered access to relevant documents?

Mr. HOROWITZ. In—with regard to certain records, we have only gotten them after the Attorney General—

Senator SHELBY. Right.

Mr. HOROWITZ [continuing]. Or the Deputy General have made a determination—

Senator SHELBY. After you had to jump through a lot of hoops, right?

Mr. HOROWITZ. After we had to get a letter from them to the component, informing them that they had the permission to give us the documents.

Senator SHELBY. Do you know if your fellow Inspector Generals, say, at the Department of State or Pentagon or Agriculture or, you

name it—Commerce—do they have to jump through these hoops to do that?

Mr. HOROWITZ. Well, I understand that there's one Inspector General at the Peace Corps, for example, who has tried to get records to do the oversight I think Congress expected in connection with sexual attacks on volunteers overseas, that has an opinion from her general counsel indicating that the IG Act does not give her authority to look at those records.

AUTONOMY OF OFFICE

Senator SHELBY. Have you thought about whether or not perhaps we need to address this legislatively, to be direct on this to Secretaries and—Attorney General, whoever—that they must furnish unfettered access to documents? Otherwise, you can't do your job.

Mr. HOROWITZ. I think it's critical that Inspectors General have that ability to make the decision for themselves, and legislation obviously would clear it up entirely, and it's a relatively small fix, understanding legislation is always difficult to get enacted.

Senator SHELBY. Well, it might not be that hard to get enacted, when the Chair of an Appropriations Committee—who knows. But, I think that we need to make sure, under all circumstances, that you and your fellow Inspector Generals have unfettered access to documents that could root out wrongdoing in any Department.

Mr. HOROWITZ. I couldn't agree more, Senator. And, I think, ultimately, that what's set up now is—Who should make that decision? Should it be the Inspector General who decides what's relevant—

Senator SHELBY. No.

Mr. HOROWITZ [continuing]. And what's needed?

Senator SHELBY. I think you're put there to do that job, in your sworn oath to do that job.

Thank you, Madam Chair.

Chairwoman MIKULSKI. We believe the Inspector Generals—this is a bipartisan—

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI [continuing]. Approach that—should have access to the information, compliant with existing law. There are certain rules and so on. I'm not a lawyer. But, you know, there's legal compliance and there's access. So, that's one thing.

Second thing, I am familiar with this—or becoming familiar with this Peace Corps situation. A young lady, who was a Peace Corps volunteer, saw another Peace Corps volunteer allegedly sexually assault, reported it, and then the Peace Corps server who reported it was murdered. Well—this is big.

So, we want to maintain the integrity of the Inspector General process. We believe in the Inspector General process. Government should be never so big or so insulated or so isolated that it does not have an independent Senate-confirmed institution to red-team their work for waste, fraud, or other forms of mismanagement. So, we look forward to working with you on this.

And, Mr. Inspector General, you come with an extensive background in sentencing, incarceration, and so on. You actually were head of the Sentencing Commission.

Mr. HOROWITZ. I was a member of the Sentencing—

Chairwoman MIKULSKI. Yes, sir. So, you come with, actually, hands-on experience. And you've seen the good and bad and ugly.

Mr. HOROWITZ. Yes.

Chairwoman MIKULSKI. So, we really welcome your insight on how we can reduce the prison population without increasing the risk to our communities. And also, the thoughts on how we can look out for the safety of our prison guard population, where they, themselves, don't feel that they're captive by the prisoners.

You bring up a compassionate situation, the over 65. We welcome your insights. I think evidence shows that, if you committed murder, you're not likely to commit murder after 65. But, if you're a sexual predator, you'll be—you could be out in that playground once again.

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI. So, we welcome your insights on how we can work constructively, evidence-based conceptual thinking, and your own experience, because you—you bring the experience of longitude from, really, enforcement to sentencing, and now the Inspector General. We're—we really appreciate your service.

So, I'm going to ask the staff, on both sides of the aisle, because this has been raised—

Mr. HOROWITZ. Yes.

Chairwoman MIKULSKI [continuing]. By other members, so this is not a party thing—

Mr. HOROWITZ. Right.

Chairwoman MIKULSKI [continuing]. This is a committee thing—to meet with our staff on how we can implement, working with the Attorney General, prison reform. We also want to work with you—Senator Shelby and I—for you to get the access to the information that you need.

Mr. HOROWITZ. Thank you.

Chairwoman MIKULSKI. So, we're going to possibly be having votes soon, so—we could talk with you all day, but we're going to thank you for your service, look forward to these reports, ask staff to work hands-on—

Mr. HOROWITZ. Absolutely.

Chairwoman MIKULSKI [continuing]. With you, and look forward to bringing about some much needed reform.

ADDITIONAL COMMITTEE QUESTIONS

Chairwoman MIKULSKI. If there's no further questions—Senators may submit additional questions—this committee stands in recess to the call of the Chair.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. ERIC H. HOLDER, JR.

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

STOPPING CHILD PREDATORS

Question. What was the level of funding for each component agency handling Adam Walsh Act efforts at the Department in fiscal year 2013 and what is the level in fiscal year 2014? How does the Department coordinate efforts?

Lead-in information from original document.—

The National Center for Missing and Exploited Children (NCMEC) estimates there are over 100,000 non-compliant sex offenders at-large in the United States. The Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109–248) gave the U.S. Marshals Service the authority to treat convicted sex offenders as fugitives if they fail to register, as well as to assist jurisdictions to locate and apprehend these individuals.

Answer. The Department received a total of \$186.5 million in fiscal year 2013 and \$200.2 million in fiscal year 2014 for Adam Walsh Act (AWA) programs. The funding levels in thousands of dollars by component are as follows:

Component	Fiscal year 2013 funding	Fiscal year 2014 funding
Bureau of Prisons	9,741	9,838
Criminal Division	4,389	4,639
INTERPOL, Washington	1,490	1,924
Office of Justice Programs	54,386	57,730
Office on Violence Against Women	22,281	27,000
United States Attorneys	40,757	43,660
United States Marshals Service	52,429	55,425
Total, Adam Walsh Act Resources	186,473	200,226

The primary vehicle for coordination of the AWA enforcement is the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office, which is part of the Office of Justice Programs and was authorized by the Adam Walsh Child Protection and Safety Act of 2006. The United States Marshals Service (USMS) Sex Offender Investigations Branch (SOIB) and National Sex Offender Targeting Center (NSOTC) work in conjunction with SMART to assist at all levels of domestic, international, military, and tribal law enforcement to identify, locate, and prosecute non-compliant sex offenders. In addition, USMS Sex Offender Investigations Coordinators (SOIC) coordinate sex offender enforcement with all necessary law enforcement partners in their districts, including Assistant U.S. Attorneys, registering agencies, local law enforcement, U.S. Probation, and local prosecutors.

Personnel from the USMS and the National Center for Missing and Exploited Children (NCMEC) are assigned to the NSOTC, along with an agent from the Department of State's Diplomatic Security Service (DSS) and two members of the United States Army. The NSOTC has also assigned an intelligence analyst to the Customs and Border Protection Targeting Center, a Senior Inspector to USNCB-INTERPOL's Human Trafficking and Child Protection Division, and a contractor to serve as a liaison with the SMART Office. These employees work to track and verify information on sex offenders who travel abroad. The NSOTC also meets with the Office of Tribal Justice (OTJ) to discuss and coordinate DOJ programs and training related to Native American sex offenders.

In addition, the Bureau of Justice Assistance administers the reallocation of funds derived from penalties against Byrne Justice Assistance Grant (JAG) awards to States that have not yet substantially implemented the requirements of the Sex Offender Registration and Notification Act (SORNA). The SMART Office assists interested jurisdictions in developing and/or enhancing programs designed to meet SORNA implementation requirements.

Question. In fiscal year 2012, the Marshals Service estimated it needed a dedicated force of 500 deputies to fully implement the Adam Walsh Act. Have they reached this level yet? If not, why not and when will they reach this level?

Answer. The USMS has an estimated 211 positions (160 operational and 51 administrative) and approximately \$56 million available to support the AWA. With these resources, and with the growing partnerships with State, local, and tribal authorities, in fiscal year 2013, the USMS opened 2,191 criminal investigations for violations of 18 U.S.C. § 2250. From those investigations, 316 Federal warrants were issued and 279 convictions were obtained. Additionally, the USMS planned and participated in over 390 sex offender related enforcement operations with 1,368 law enforcement agencies, resulting in 39,854 compliance checks of known registered sex offenders.

USMS continues to vigorously pursue violators of the AWA to stem the violence against children by targeting apprehension of sex offenders who prey on children; augment staffing in areas of the country with large numbers of non-compliant sex offenders; expand the staff at the NSOTC; and provide broader support to States

in enforcing sex offender registration laws and in prosecuting non-compliant sex offenders.

Question. In December 2012, the Marshals Service received administrative subpoena authority for these investigations in the Child Protection Act (Public Law 112-206). When were deputies first able to start using this authority? How many fugitive sex offenders have been arrested due to this authority?

Answer. Following enactment of this legislation, the USMS formed a working group to ensure appropriate implementation of the administrative subpoena authority. The USMS realized the critical importance of developing clear policy and protocols with sufficient controls, oversight, and accountability to address privacy concerns with the information collected. The USMS analyzed risks involving privacy information and met with stakeholders to craft a policy that addressed and resolved several concerns. During this time, the USMS reviewed other systems and devised an implementation strategy that safeguarded the privacy of information. Because the administrative subpoena language limits and restricts its use, the USMS also addressed changes to its law enforcement database system to restrict access to the collected information.

As of August 2014, all USMS Sex Offender Investigations Branch (SOIB) personnel and full-time Sex Offender Investigations Coordinators have been trained on the policy, standard operating procedures and updates to the Criminal Case Module in the Justice Detainee Information System (JDIS) including administrative subpoena enhancements. The enhancements allow the administrative subpoena process to be managed entirely within JDIS and allow access to documents and information to be restricted to only those with a vested interest in the case. Training sessions for district management were provided last October 2014. This training provided a brief overview of the USMS Administrative Subpoena program and a detailed presentation on the request and approval process. The USMS/SOIB will continue to provide training on administrative subpoenas including programmatic and legal updates to USMS investigators during the SOIC Basic Training courses, and to district senior management during regional management trainings.

The widespread use of administrative subpoenas did not begin until September 1, 2014. To date, 34 administrative subpoena requests have been submitted, of which 31 were approved and served, two were denied, and one is currently going through the approval process.

HUMAN TRAFFICKING

Question. With multiple Justice Department agencies involved in fighting human trafficking, how are you coordinating efforts and tracking results?

Lead-in information from original document.—

Human trafficking crimes involve the act of compelling or coercing a person's labor, services, or commercial sex acts. The coercion can be subtle or overt, or physical or psychological. Trafficking doesn't just mean smuggling people in or out the country as traffickers have demonstrated their ability to exploit other vulnerable populations like runaway children and documented guest workers.

The Justice Department has multiple agencies working on issues related to human trafficking and in fiscal year 2013, made 161 forced labor and sex trafficking prosecutions, a 25 percent increase, and the highest number of human trafficking cases on record. Prosecutions are handled by the U.S. Attorneys Office and Civil Rights Division, grant funding is provided through the Office of Justice Programs and the FBI is the lead investigative agency. For fiscal year 2015, the Department requests \$45 million to combat human trafficking across the Department, a decrease of \$3 million below fiscal year 2014.

Answer. As the Department's anti-trafficking enforcement efforts continue to grow in scope, complexity, and impact, we are continuing to strengthen coordination among the many DOJ components participating in these efforts. The Department's Human Trafficking Working Group coordinates between and among DOJ components involved in victim assistance programs, State and local law enforcement grants and technical assistance programs, and Federal law enforcement. The Federal Enforcement Working Group coordinates among the Civil Rights Division's specialized Human Trafficking Prosecution Unit (HTPU), the Executive Office for United States Attorneys (EOUSA), the U.S. Attorneys' Offices (USAOs), FBI, and other Federal law enforcement agencies. HTPU and the Child Exploitation and Obscenity Section of the Department's Criminal Division (CEOS) coordinate extensively on cases and issues that affect child sexual exploitation, including sex trafficking of minors, which is within the subject matter expertise of CEOS, and international sex trafficking, sex trafficking of adults by force, fraud, and coercion, and

forced labor which is within the subject matter expertise of HTPU. The Office of the Deputy Attorney General coordinates among DOJ agencies on policy issues, performance data, and interagency matters affecting multiple DOJ components.

Question. How does the Justice Department collaborate with other Federal agencies like the Department of Homeland Security and Department of Labor? Do agencies regularly share information?

Lead-in information from original document.—

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Answer. Coordination among the Department of Justice (DOJ), Department of Homeland Security (DHS) and Department of Labor (DOL) has never been stronger. All of these agencies participate in the Federal Enforcement Working Group (FEWG), which brings together the National Program Managers and subject matter experts from HTPU, EOUSA, FBI Civil Rights Unit, DHS—Homeland Security Investigations—Human Smuggling and Trafficking Unit, DOL—Wage and Hour Division and DOL—OIG to streamline coordination among Federal investigators and Federal prosecutors both at the HQ level and at the regional level. Through the efforts of this interagency FEWG, in 2011 the Attorney General and Secretaries of Homeland Security and Labor jointly developed the Anti-Trafficking Coordination Team (ACTeam) Initiative. During Phase I of this Initiative, the FEWG conducted a nationwide rigorous, competitive, interagency selection process culminating in the launch of six Phase I Pilot ACTeams charged with implementing a coordinated interagency strategy to advance Federal human trafficking investigations and prosecutions. Based on the results of Phase I, the interagency FEWG unanimously agreed to initiate Phase II during 2014. In connection with this initiative, DOJ, DHS, and DOL jointly developed and delivered an intensive week-long Advanced Human Trafficking Training Program for interagency teams of Federal investigators and Federal prosecutors.

In addition, DOJ and DHS collaborate extensively on their U.S.-Mexico Bilateral Enforcement Initiative which has established coordination structures to exchange leads and evidence with Mexican law enforcement counterparts to more effectively apprehend traffickers, rescue victims, recover victims' children, and dismantle trafficking networks operating across the U.S.-Mexico border. DOJ and DOL meet regularly to collaborate on cross-training and cross-referral protocols to enhance victim identification capacity.

To strengthen victim services, DOJ, HHS, and DHS co-chaired an interagency effort to develop the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013–2017. The plan outlines Federal government-wide goals for short- and long-term improvements in identifying and serving victims of human trafficking. A draft plan was circulated for informal public comment in April 2013 and a series of weekly interagency meetings was held to review the comments and improve the plan. The final plan was released at a survivor forum in January 2014 and is available at <http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf>.

Question. How is the Department addressing sex trafficking on the Internet?

Lead-in information from original document.—

Human trafficking crimes involve the act of compelling or coercing a person's labor, services, or commercial sex acts. The coercion can be subtle or overt, or physical or psychological. Trafficking doesn't just mean smuggling people in or out the country as traffickers have demonstrated their ability to exploit other vulnerable populations like runaway children and documented guest workers.

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Office of Justice Programs and the FBI is the lead investigative agency. For fiscal year 2015, the Department requests \$45 million to combat human trafficking across the Department, a decrease of \$3 million below fiscal year 2014.

Answer. The Department of Justice shares Congress's concerns about sex trafficking on the Internet. The Department has attacked this problem with a robust investigative and prosecutorial response, as well as through training and outreach. The Criminal Section of the Civil Rights Division (CRT) and CRT's Human Trafficking Prosecution Unit (HTPU), in collaboration with United States Attorneys' Offices (USAOs) nationwide, have principal responsibility for prosecuting human trafficking crimes, except for cases involving sex trafficking of minors. The Child Exploitation and Obscenity Section of the Department's Criminal Division (CEOS) shares responsibility and collaborates closely with USAOs nationwide in the investigation and prosecution of Federal cases involving child sexual exploitation, including the prostitution of children and the extraterritorial sexual abuse of children.

In 2011, the Department expanded Project Safe Childhood (PSC). Founded in 2006, PSC had initially focused on the effective prevention, investigation, and prosecution of technology-facilitated child sexual exploitation crimes. In 2011, the Department broadened the program to cover all Federal child sexual exploitation crimes, including the sex trafficking of children and child sex tourism. As a result of the expansion of PSC, U.S. Attorneys conducted threat assessments of the harm posed in their districts by crimes involving the commercial sexual exploitation of children, resulting in enhanced ability to develop and share expertise on the prevention and prosecution of these crimes. In the Department's Strategic Plan for fiscal year 2014–2018, one of the four priority goals is to protect vulnerable populations by increasing the number of investigations and prosecutions concerning child exploitation, human trafficking, and non-compliant sex offenders, and by improving programs to prevent victimization, identify victims, and provide services. The Department co-lead an interagency effort to develop the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, which is available at <http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf>. This plan is intended to improve the response to all victims of trafficking, including those whose trafficking was facilitated by the Internet.

The sections below provide examples of the Department's successful prosecutions, ongoing initiatives and partnerships with law enforcement agencies, and training and outreach efforts involving sex trafficking on the Internet.

1. A. Prosecutions

United States v. Daniel Burton (D. Md.): In January 2014, Daniel Burton, a/k/a Snoop, age 30, of Capitol Heights, Maryland was sentenced to 262 months in prison followed by a lifetime term of supervised release following his guilty plea to the sex trafficking of a minor. According to his plea agreement, in March 2008, Burton recruited a 13-year-old girl to engage in prostitution for him. Burton drove her to hotels, photographed her in lingerie, and advertised her on Craigslist for sexual services. The girl had sex with many clients that responded to the ads, and Burton kept all the money she earned. Burton provided the girl with alcohol, marijuana, and ecstasy. On April 8, 2008, law enforcement saw a Craigslist ad for the girl's sexual services and arranged a "date." Law enforcement arrived at the hotel and arrested Burton, who was sitting outside.

The case was investigated by the FBI-led Maryland Child Exploitation Task Force (MCETF), created to combat child prostitution, with members from 10 State and Federal law enforcement agencies. MCETF also partners with the Maryland Human Trafficking Task Force, formed in 2007 to discover and rescue victims of human trafficking while identifying and prosecuting offenders.

United States v. Weylin Rodriguez, et al. (M.D. Fla.): In March 2013, Weylin Rodriguez received a sentence of life imprisonment following his conviction in November 2012 by a Federal jury for sex trafficking of three minors and two adults through the use of force, fraud, and coercion, as well as firearms offenses. Co-conspirators Tatjuana Joye and Pria Gunn pled guilty to one count of conspiracy to engage in sex trafficking of minors and by force, fraud and coercion. In December 2012, Gunn was sentenced to 46 months incarceration and in February 2013, Joye, who cooperated with the Government's investigation, was sentenced to time served. Rodriguez ran a prostitution ring called "GMB" (aka "Get Money Bitch") and lured several minors and young adults into his ring through a variety of means, including promising them jobs as models. Rodriguez advertised the victims on backpage.com and also forced the victims to walk the streets to pick up "dates." The victims were required to follow numerous rules and give all the money from their "dates" to

Rodriguez. To prevent the victims from leaving his ring, Rodriguez inflicted severe beatings on them and threatened them with guns.

The FBI's Tampa, Florida Office, the Orlando Metropolitan Bureau of Investigation, and the Orange County (Florida) Sheriff's Office investigated the case, with additional investigation conducted by the Osceola County (Florida) Sheriff's Office and the Charlotte-Mecklenburg Police Department (North Carolina).

1. B. Investigations and Initiatives

In 2003, the FBI established the Innocence Lost National Initiative (ILNI) as a means to combat the increasing frequency of commercial sexual exploitation of children through prostitution, much of which is initiated online via advertisements. The ILNI is victim centered, and is primarily designed to identify and recover children. Over the past 11 years, the FBI and its partners have developed specific operations to target both the supply side (individuals responsible for the facilitation of this crime problem) and the demand side (those who pay to engage in sex with children).

Over 2,100 investigations opened since the inception of the ILNI have resulted in over 1,450 convictions on Federal, State, and local charges, and over 3,100 children recovered and/or identified. The youngest victim was 9 years old. Substantial sentences of convicted pimps have been obtained, including 13 life sentences and many sentences ranging from 25 to 50 years in prison.

The FBI has partnered with nearly 400 State, local, and Federal agencies to form 69 Child Exploitation Task Forces (CETF) throughout the United States. FBI field offices focus their resources on criminal enterprises engaged in the transportation of juveniles for the purpose of prostitution, using intelligence driven investigations and employing sophisticated investigative techniques. The FBI uses the Internet as an investigative tool to identify online advertisements for prostitution involving children located on over 100 Web sites.

In addition, the FBI has coordinated seven iterations of Operation Cross Country (OCC) since June 2008. OCC is a national enforcement operation, conducted over 3-to-5-day periods, to combat commercial sexual exploitation of children through prostitution in the United States. FBI field offices, working with their law enforcement partners, participated in the operation by targeting venues such as truck stops, motels, and casinos where children are exploited, as well as the Internet. Law enforcement officers from over 450 local, State, and Federal law enforcement agencies joined together to recover victims and apprehend those who have victimized them. As a result of these operations, 434 child victims have been safely recovered and 581 pimps engaged in the commercial sexual exploitation of children have been arrested.

1. C. Training

The Department has led and participated in numerous training events in recent years. CEOS provides advice and training to prosecutors, law enforcement personnel and government officials both worldwide and in the United States. The FBI also provides training and promotes interagency sharing of skills in investigating sexual exploitation offenses to develop a nationwide capacity to provide a rapid, effective, and measured investigative response to crimes against children.

CEOS attorneys travel all over the world to conduct trainings for investigators, law enforcement and others involved in investigations and prosecutions of child exploitation offenses, including sex trafficking over the Internet. For example, CEOS attorneys participated in three separate training conferences in Mexico in 2013, including presenting at the Homeland Security Investigations Immigration and Customs Enforcement (HSI ICE) Human Trafficking Seminar in August 2013. CEOS also consults with numerous foreign delegations in the United States to discuss efforts to enhance worldwide efforts against child sexual exploitation crimes, including commercial sexual exploitation of children.

Furthermore, in the United States, CEOS conducts trainings and participates in coordination meetings with law enforcement and prosecutors' offices. The FBI provides training on child exploitation investigations as well. Since 2003, the FBI has partnered with NCMEC to host Protecting Victims of Child Prostitution training courses. To date, over 1,300 law enforcement officers and prosecutors have received this training on the comprehensive identification, intervention, and investigation of the commercial sexual exploitation of children.

Question. What is being done to address human trafficking on tribal land?

Lead-in information from original document.—

Human trafficking crimes involve the act of compelling or coercing a person's labor, services, or commercial sex acts. The coercion can be subtle or overt, or physical or psychological. Trafficking doesn't just mean smuggling people in or

out the country as traffickers have demonstrated their ability to exploit other vulnerable populations like runaway children and documented guest workers.

The Justice Department has multiple agencies working on issues related to human trafficking and in fiscal year 2013, made 161 forced labor and sex trafficking prosecutions, a 25 percent increase, and the highest number of human trafficking cases on record. Prosecutions are handled by the U.S. Attorneys Office and Civil Rights Division, grant funding is provided through the Office of Justice Programs and the FBI is the lead investigative agency. For fiscal year 2015, the Department requests \$45 million to combat human trafficking across the Department, a decrease of \$3 million below fiscal year 2014.

Answer. The Department of Justice's strong commitment against human trafficking is represented in every United States Attorney's Office in each district. All USAOs participate in a human trafficking taskforce, where Indian country cases are discussed. In particular to Indian country, the Executive Office for United States Attorneys recently conducted a forensic interviewing class wherein DOJ employees were trained to better interview victims of human trafficking (including Native victims).

Additionally, the FBI investigates human trafficking and other crimes that occur in Indian country. The FBI is also making a concerted effort to increase awareness through training of Federal and tribal law enforcement and victim specialists as well as supporting investigations as they are identified. The FBI is working to also provide training opportunities that highlight victim identification, investigative techniques, and available resources.

From July 8, 2013 through July 12, 2013, the Department's Office on Violence Against Women (OVW) conducted a site visit to western North Dakota meeting with local law enforcement, tribal leaders, victim advocates, the U.S. Attorney for North Dakota, State and tribal coalition leaders, and service providers from both North Dakota and Montana. OVW is exploring providing funds to law enforcement and victim service providers in western North Dakota and eastern Montana to address domestic violence, sexual assault, stalking, and trafficking. In fiscal year 2012, the Bureau of Justice Assistance (BJA) solicited proposals to address the issue of human trafficking in Native American communities by developing and providing training to build awareness of the existence of human trafficking in Indian Country, and providing law enforcement and community stakeholders with the tools necessary to begin the process of victim identification, rescue and restoration, while providing appropriate consequences for perpetrators in a consistently applied manner. BJA received four applications through a competitive process and awarded \$305,000 to the Upper Midwest Community Policing Institute (UMCPI) to develop and pilot the training.

Since the award to UMCPI was made in September 2013, UMCPI, working with BJA, developed curriculums and delivered human trafficking trainings to tribal law enforcement. A summary of the curriculums and the training sessions is provided below.

Curriculum Development

The *Human Trafficking in Native American Communities* curriculum was developed by UMCPI, based on recommendations from a focus group of subject matter experts that included State, tribal and municipal law enforcement personnel, some with expertise in human trafficking; Federal officials from the U. S. Attorney's Office—Western Washington and Department of Homeland Security; and State Social and Health Indian Child services unit. The curriculum provides training for tribal law enforcement, tribal leaders and community stakeholders that includes components covering: (1) basic understanding of human trafficking; (2) outreach to the community, tribal leaders and service providers; (3) the development of protocols and policies to increase the community's capacity to address human trafficking; and (4) specialized investigative and case coordination training for law enforcement.

Tribal Youth Peer-to-Peer Human Trafficking in Indian Country Prevention Curriculum is an interactive, culturally responsive curriculum that is to be delivered by persons who currently work with Native American youth and who have completed the required train-the-trainer program, offered by UMCPI. The curriculum is designed to provide Native American youth with an understanding of the types of human trafficking that can occur; how human trafficking can occur in their community and provide them with information to help them identify internal and external resources that can serve as protective factors against human trafficking crimes.

UMCPI is also reviewing its other existing human trafficking training, to explore how such training may be customized for the Native American Community.

Trainings

- Representatives from law enforcement, tribal council, social services, casino security, wildlife law enforcement, courts, and a gaming regulatory commission attended the Human Trafficking in Native American Communities pilot training.
- Representatives from education, recreation, tribal wellness organizations and tribal council and a research organization attended two Tribal Youth Peer-to-Peer Human Trafficking in Indian Country Prevention pilot trainings.

Future Trainings

- Two additional Human Trafficking in Native American Communities pilot trainings are scheduled to be held between August and December 2014.
- BJA is currently working with UMCPPI to determine available funding for future training classes. Additional information about UMCPPI's human trafficking training is available at its Web site, <http://www.umcpi.org/Services/NationalInitiatives/HumanTrafficking.aspx>.

TASK FORCES

Question. How does the Department ensure there is not duplication of effort across task forces? How is task force effectiveness measured? Which component agencies have the largest number of task forces?

Lead-in information from original document.—

The Justice Department has 570 task forces covering areas from terrorism and fugitive apprehension to intellectual property and child recovery. These task forces are comprised of teams of not only Federal law enforcement but State and local police and intelligence agencies working together to identify and respond to crime at the local level.

Answer. While several DOJ components operate task forces with similar missions, each component brings a unique set of experience and skills to its investigations. Further, DOJ has several deconfliction mechanisms, such as DEA's Special Operations Division (SOD) and the Organized Crime Drug Enforcement Task Forces (OCDETF) Fusion Center, to ensure that task forces are not conducting investigations of the same target. In fiscal year 2012 and fiscal year 2013, the Department consolidated or eliminated more than 40 task forces to reduce intra-agency overlap and ensure efficient task force management. The Department recently adopted a mandatory policy regarding the use of deconfliction systems in the course of all current and future investigative activity, which took effect on May 30, 2014. Implementation of this policy will address investigative, target, and event data; improve effective coordination and collaboration of investigative activity; maximize departmental performance; and most importantly ensure officer safety. Regarding effectiveness, each of the agencies' task forces have a unique mission, defined goals, and individualized performance metrics incorporated into their overall agency leadership and culture. DEA operates 250 task forces, including its regional task forces, its Tactical Diversion Squads, and High Intensity Drug Trafficking Area (HIDTA) task forces. FBI operates 217 Safe Streets and Safe Trails task forces focused on violent gangs, violent crime, and major theft, and the USMS operates 67 fugitive task forces, including its 7 Regional Fugitive Task Forces.

Question. How have cuts by State and local governments to their law enforcement agencies impacted these operations? Have there been demands for additional task force help in communities or States that have had to downsize their public safety budgets? Or has participation in task forces declined because States and localities can't spare the personnel to participate?

Answer. DOJ's investigative agencies have seen mixed impacts on State and local task force participation. For example, DEA's Tactical Diversion Squads have seen a significant increase in participation while participation on ATF's task forces and FBI's Joint Terrorism Task Forces has remained stable. In some localities, participation is down on FBI's criminal task forces while requests for operational assistance have increased.

ASSETS FORFEITURE

Question. What has been shared with State and local partner agencies via equitable sharing programs or as part of asset forfeiture in fiscal year 2012 and 2013 and what is expected to be shared in fiscal year 2014?

Answer. The Department's Asset Forfeiture Program (AFP) made payments of \$447.3 million in fiscal year 2012 and \$657.2 million in fiscal year 2013 to State and local partner agencies through the equitable sharing program. In fiscal year

2014, the AFP made equitable sharing payments of \$425.1 million to State and local partner agencies.

Additionally, the Department's AFP made available \$140.5 million in fiscal year 2012 and \$154.7 million in fiscal year 2013 and fiscal year 2014 for expenses incurred by State and local law enforcement officers participating in joint law enforcement operations with Federal agencies.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

IMMIGRATION COURTS

Question. What will be the real impact, of an additional 35 immigration judge teams, to the existing backlog when the staffing needs appear to be so dire?

Lead-in information from original document.—

I am concerned about the large and expanding docket of our Nation's immigration court system. Between 2009 and 2013, the pending caseload grew 50 percent. The Executive Office for Immigration Review has stated the court system has 32 vacancies. To make matters worse, nearly half of the 200 immigration judges are eligible for retirement. However, I was encouraged the Department of Justice requested a \$17 million to support an additional 35 Immigration Judge teams to help process the backlog of over 350,000 cases.

Answer. The addition of 35 Immigration Judge Teams will allow EOIR's immigration courts to process a greater number of pending cases. The number of pending cases over time depends on the volume of existing cases, new charging documents filed by DHS, and case completions. EOIR's current pending caseload volume in fiscal year 2014 is approximately 389,000 proceedings. The number of annual completions by an Immigration Judge varies according to a number of factors, including the type of docket to which the judge is assigned. Taking into account variable completion rates among judges, EOIR estimates that 35 additional IJ teams will likely complete between 21,000 and 28,000 proceedings annually. The effect of this added productivity upon the pending caseload or backlog will depend on the number of additional charging documents filed by DHS during the same period. Finally, any gains in staffing and productivity may be lowered slightly due to normal staff attrition.

Question. What other steps is EOIR taking to promote efficiencies to address the immigration court backlog?

Answer. EOIR continues to work closely with DHS, other government agencies, and non-profit organizations to explore ways to promote efficiencies to address the immigration courts pending caseload. In conjunction with these groups, EOIR has conducted test pilots across the country in the areas of non-contested dockets, alternatives-to-detention, pre-trial conferences, and unaccompanied alien children scheduling adjustments to try to streamline immigration proceedings.

To improve the effective and efficient adjudication of immigration removal proceedings for vulnerable populations, such as unaccompanied alien children and detained aliens who are deemed mentally incompetent to represent themselves in immigration proceedings, EOIR dedicated over \$3 million in fiscal year 2014 resources to provide legal aid services to these populations.

Additionally, in fiscal year 2014, EOIR dedicated approximately \$6.6 million for the Legal Orientation Program (LOP), which improves efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights and the overall process. As a result of the increased funding provided in fiscal year 2014, EOIR expanded the program to provide these services at five additional adult facilities and four family detention facilities. Today, the LOP is available at 32 sites across the country. Evaluation reports have shown that LOP participants complete their immigration court cases in detention an average of 12 days faster than detainees who do not participate in an LOP, which saves the Government approximately \$12.3 million annually. EOIR has requested another \$2.8 million in fiscal year 2015 to respond to elevated demand at existing LOP sites and to add 12 more sites.

FORENSICS REFORM

Question. Would you agree that there must be national leadership in the area of forensic science, and that the Department of Justice, working with the FBI and other elements of the executive branch, can play a central role in the development of this important part of our criminal justice system?

Lead-in information from original document.—

Last month, I introduced a comprehensive bill aimed at strengthening and improving the forensic sciences used in the criminal justice system. I am pleased that Senator Cornyn has joined as a cosponsor of this bill, and hope that we can continue to build support for this bipartisan, commonsense bill. I know that the Department of Justice has been a leader in the forensic sciences, particularly with regard to DNA analysis in their FBI crime labs. But I think you will also agree with me that more work needs to be done.

Answer. Yes, the Department of Justice (DOJ) agrees that there must be national leadership in the area of forensic science. To that end, DOJ, in collaboration with the National Institute of Standards and Technology, established the National Commission on Forensic Science to provide Federal leadership in forensic science while also encouraging strong State and local participation. The Commission will have an important role in strengthening the validity and reliability of the forensic sciences and enhancing quality assurance and quality control. Scientifically valid and accurate forensic analysis supports all aspects of our justice system.

Question. Will you commit to working with me on the forensics reform bill that I introduced last month?

Answer. The Department is committed to working closely with you and others in Congress to strengthen forensic science. We are grateful for your interest in this important issue and will be glad to work with Congress on efforts to enhance the validity and reliability of forensic sciences.

BUDGET CUTS

Question. Can you describe what DOJ programs have faced shrinking budgets in recent years and what impact, if any, this threatens to have on public safety?

Lead-in information from original document.—

In recent years the Bureau of Prisons' budget has expanded at unprecedented levels despite overall funding for the Justice Department remaining relatively stagnant.

Answer. Since fiscal year 1994, the Federal prison population more than doubled, and the detention population more than tripled. As a result, the budget for prisons and detention has constituted an increasing portion of the Department's total budget. Prisons and detention costs increased from 27 percent of DOJ's discretionary budget in fiscal year 2000 to 31 percent in fiscal year 2013, leaving less funding for other DOJ functions even before sequester. During this same period, including grants for State and local law enforcement, funding for grants decreased from 26 percent of DOJ's fiscal year 2000 budget (\$4.0 billion) to 8 percent (\$2.0 billion) in fiscal year 2013.

If this trend continues unabated while DOJ's total authority remains flat, the discretionary funding available for other DOJ activities that protect public safety—including resources for investigation, prosecution, prevention, intervention, and assistance to State and local law enforcement—will decrease.

This reality has only served to intensify the need for smarter investments to protect public safety. For this reason, on August 12, 2013, the Attorney General announced his "Smart on Crime" initiative, which prioritizes prosecutions of the most serious cases, reforms sentencing policies to help control Federal prison spending and ensure that people convicted of low-level, non-violent drug offenses receive appropriate sentences, invests in alternatives to incarceration for low-level, non-violent offenders, and improves reentry to curb repeat offenses and re-victimization.

PRISONER REENTRY

Question. In furthering its goal of ensuring public safety, what has the Department of Justice found to be the most effective tools or methods to reducing recidivism rates?

Lead-in information from original document.—

Last year, Senator Portman and I introduced the Second Chance Reauthorization Act, which is aimed at improving prisoner reentry.

Answer. The Department of Justice (DOJ) is committed to fulfilling the objectives outlined in the Second Chance Act (SCA). Reentry programming provides a major opportunity to reduce recidivism, save taxpayer dollars and make our communities safer. One of the primary goals of the SCA has been to reduce recidivism by using risk and needs assessments to identify returning offenders with moderate- to high-risk of returning to prison or jail. Focusing on these moderate- to high-risk offenders

allows agencies to concentrate their resources on those offenders with the most significant needs. The Department's Bureau of Justice Assistance (BJA) manages the SCA grant programs and believes that the most effective tools to prevent recidivism are a set of "comprehensive wrap-around services" based on evidence-based programs that meet the identified needs of individual offenders. For example, it does little good to find an offender a job if his or her substance abuse or mental health problems are barriers to keeping the job. Likewise, simply having a place to live may not stabilize an offender unless he or she has access to supportive case management services designed to help him or her adjust to independent living situations. There are no "silver bullets" that will magically eradicate recidivism; rather, it takes a complete tool box of services to apply to each unique situation based on the specific needs of the returning offender.

Bureau of Prisons (BOP) also offers a variety of programs to help inmates return to their communities as law-abiding citizens, including work, education, vocational training, substance abuse treatment, observance of faith and religion, psychological services and counseling, and other programs that impart essential life skills.

To strengthen the focus on its reentry mission, BOP created the Reentry Services Division (RSD) in fiscal year 2013. RSD will enhance reentry programming and community resource transition, thereby decreasing the recidivism rate of released offenders and increasing public safety. RSD is comprised of five branches that were previously part of the Correctional Programs Division: National Reentry Affairs, Chaplaincy Services, Residential Reentry Management, Female Offenders, and Psychology Services.

Some of BOP's most successful programs include:

- Federal Prison Industries (FPI or trade name UNICOR) is one of the BOP's most important correctional programs. Approximately 13,000 inmates work in FPI. It has been proven to substantially reduce recidivism. Research has demonstrated that inmates who participate in the FPI are 24 percent less likely to reenter the Federal system than similar non-participating inmates. FPI gives inmates the opportunity to develop marketable work skills and a general work ethic—both of which can lead to viable, sustained employment upon release. This is particularly noteworthy for reentry given the barriers to post-release employment many offenders face. FPI also keeps inmates productively occupied; inmates who participate are substantially less likely to engage in misconduct.
- FPI inmate employment has significantly decreased in recent years. This decrease is a result of the downturn in the economy, a decrease in supplies needed to support the war effort, as well as legislative changes. Legislation enacted over the past few years (including various provisions in Department of Defense authorization bills and appropriations bills) also have weakened FPI's standing in the Federal procurement process by requiring FPI to compete for the work of Federal agencies in many instances where it was previously treated as a mandatory source of supply.
- More recently, Congress has enacted legislation to assist in enhancing inmate work opportunities. Staff in BOP's New Business Development Group are dedicated to developing repatriation and Prison Industries Enhancement Certification Program (PIECP) opportunities, and are enthusiastically pursuing many different products and working with a number of different potential partners.
- Educational programming provides inmates with an opportunity to learn the functional skills that support their reintegration into the community. Inmate education programs include literacy, English-as-a-Second Language (ESL), occupational education, advanced occupational education (AOE), parenting, release preparation courses, and a wide-range of adult continuing, wellness, and structured and unstructured leisure time activities. At the end of fiscal year 2013, 34 percent of the designated inmate population was enrolled in one of more education/recreation program. Empirical research has found that participation in educational programs leads to a 16 percent reduction in recidivism by inmates who participate in these programs.
- The BOP's substance abuse strategy includes a required drug education course, non-residential drug abuse treatment, residential drug abuse treatment, and community transition treatment. Because certain non-violent offenders who successfully complete all components of this recidivism-reducing program are eligible for an incentive of up to 1 year off their sentence, inmates are strongly motivated to participate. Empirical research has shown that inmates who complete the residential drug abuse treatment program are 16 percent less likely to recidivate and 15 percent less likely to have a relapse in their substance use disorder use within 3 years after release (male inmates).

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

PROSECUTING GITMO DETAINEES IN U.S. COURTS

Question. Now that we have seen that conviction rates have been higher in Federal criminal courts than in Military Commissions, aren't there some GTMO detainees who we would be better off prosecuting in Federal criminal court, especially for conspiracy and material support?

Answer. The Department has never doubted the ability of the Article III court system to administer justice swiftly and effectively in terrorism-related prosecutions. Hundreds of terrorism-related cases have demonstrated the effectiveness of this approach, including the March 2014 conviction by a Federal jury in Manhattan of Sulaiman Abu Ghayth, the son-in-law of Usama bin Laden and a senior member of al Qaeda, and the May 2014 conviction by a Federal jury in Manhattan of Mustafa Kamel Mustafa a/k/a "Abu Hamza al Masri", another al Qaeda-linked figure who, among other things, conspired to establish a terrorist training camp here in the United States. The decision of whether to prosecute terrorism cases in Article III courts or in military commissions must be based on the facts and circumstances and our national security interests on a case-by-case basis. As you know, however, Section 1034 of the National Defense Authorization Act for fiscal year 2014 continues the ban against using Department of Defense funds to transfer Guantanamo detainees into the United States for any type of trial or any other purpose.

Question. If GTMO detainees can be held safely and securely before, during, and after their trial in Federal criminal courts, when will we start bringing GTMO detainees into the United States for prosecution again?

Lead-in information from original document.—

Like you, I was pleased to see that, last month, a senior al-Qaeda figure named Sulaiman Abu Ghayth was convicted in Federal criminal court of all three counts against him, which could bring a sentence of life in prison.

With the high rate of convictions we have seen in the Federal courts since 9/11, I'd like to get your thoughts on transferring detainees from Guantanamo for prosecution in the U.S. Although Abu Ghayth was not transferred from Guantanamo, he was a senior al-Qaeda figure. And there is the precedent of Guantanamo detainee Ahmed Ghailani being transferred to New York City where he was sentenced to life in prison in Federal court for conspiracy to kill Americans even though he was acquitted of most of the other charges against him.

Answer. There is ample evidence that terrorism defendants can be held safely and securely before, during, and after trial in the United States. As you know, however, the National Defense Authorization Act for fiscal year 2014 continues the ban against using Department of Defense funds to transfer Guantanamo detainees into the United States for trial or any other purpose.

Question. Will you please work with this Committee to oppose any restrictions on these transfers to the U.S. that would make it harder to bring these terrorists in Guantanamo to justice?

Answer. The Administration remains committed to closing the detention facility at Guantanamo Bay, as continued operation of the facility weakens our national security. We welcomed the loosening of some of the restrictions related to the transfer of detainees to foreign countries in the National Defense Authorization Act for fiscal year 2014. However, the continuing restrictions on transfer of Guantanamo detainees to the United States and the remaining restrictions on transfer of detainees to third countries unnecessarily curtails the flexibility and options available to the executive branch. The Justice Department will continue to work with Congress to remove these transfer restrictions.

TERRORIST ASYLUM

Question. Mr. Attorney General, as you know, one of the arguments critics use to justify their position that more terrorists should be sent to Guantanamo is that they can be granted asylum if they are prosecuted on U.S. soil. What is your response to that claim?

Answer. As explained more fully in the recently submitted congressional report requested by Section 1039 of the National Defense Authorization Act for fiscal year 2014, no Guantanamo detainee relocated to the United States would have a right to receive a grant of asylum in the United States. Asylum is a discretionary form of relief generally available to an alien who demonstrates, inter alia, that he was persecuted or has a well-founded fear of persecution in his country of nationality on account of his actual or imputed race, religion, nationality, membership in a par-

ticular social group, or political opinion. Although an alien who is physically present in the United States may, with limited exceptions, file an application for asylum, that application may be denied as a matter of discretion even if the alien were able to satisfy the eligibility requirements. Moreover, in many cases involving Guantanamo detainees, one or more of a number of statutory bars to eligibility could also apply. For example, an alien who has engaged in terrorist activity as described in INA § 212(a)(3)(B), 8 U.S.C. § 1182(a)(3)(B), is ineligible for asylum. An alien is also barred from obtaining asylum where he has ordered, incited, assisted, or otherwise participated in persecution on account of a protected ground or where there are reasonable grounds for regarding the alien as a danger to the security of the United States. Additionally, where an alien, having been convicted of a particularly serious crime, poses a danger to the community or where there are “serious reasons for believing that the alien has committed a serious nonpolitical crime” outside the United States, the alien is also barred from receiving asylum.

FUNDING FOR THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES (ATF)
ATTRITION

Question. How will the loss of special agents affect ATF’s ability to conduct criminal investigations, train new agents, and carry out the Bureau’s work?

Answer. ATF’s ability to effectively address violent crime in our communities and neighborhoods is directly tied to the number of special agents and industry operations investigators in our workforce. ATF faces several challenges including the anticipated retirement and attrition of hundreds of special agents in the next few years. While ATF has traditionally worked in partnership with State and local law enforcement agencies to leverage its capabilities and impact on violent crime, these approaches alone are not sufficient to overcome significant losses within its agent cadre. The loss of hundreds of special agents jeopardizes ATF’s mission capacity; however, the fiscal year 2014 Appropriation began to address this challenge and ATF was able to hire approximately 217 special agents in fiscal year 2014. With the funding requested in the fiscal year 2015 President’s budget, ATF will be able to sustain the hiring effort started this year.

Question. What steps is ATF taking to address this attrition?

Answer. ATF hired approximately 217 special agents in fiscal year 2014 in an effort to offset the impact of recent attrition as well as projected future attrition and retirements. ATF anticipates that a sustained hiring effort will be required over the next several years in order to maintain the special agent cadre and ensure that there is no degradation of ATF’s mission capability as a result of personnel loss.

ATF is also revitalizing and expanding its advanced agent training programs and leadership development programs. For example, ATF has undertaken course redesign/review efforts related to its advanced investigations training program, the advanced firearms training program, and the Industry Operations Investigator (IOI) training programs. The goal for these efforts is to create updated curricula that can be broken out into individual modules and delivered by instructors already in the field. ATF is also accelerating its leadership development efforts. For example, ATF has completed development and implementation of the ATF Leadership Philosophy, which provides a consistent contextual basis for developing and emphasizing leadership principles throughout the organization. ATF has also initiated development of a new Leadership and Command course for agents in the supervisory and managerial ranks, addressing a critical need within those cadres. Further, ATF is investing in additional training opportunities for managers through the Center for Creative Leadership (CCL) and is increasing its support for its Aspiring Leaders and Leadership Enhancement programs.

While hiring new agents serves as a numerical offset to attrition, many years of training and experience are required before a new agent is fully capable of replacing a senior agent. ATF is working to accelerate that development process, taking advantage of the existing experience of senior agents within the workforce to prepare new agents for the technical and leadership challenges that lie ahead.

Question. How does the President’s budget request for ATF address this attrition?

Answer. ATF anticipates that a sustained hiring and training effort will be required over the next several years in order to maintain ATF’s special agent cadre and ensure that ATF’s mission capability is not degraded due to retirements and attrition. ATF hired approximately 217 special agents in fiscal year 2014 in an effort to offset the impact of recent attrition as well as projected future retirements and the fiscal year 2015 President’s budget sustains these hiring efforts.

Question. How imperative is it that Congress fully fund ATF in line with the President’s budget request?

Answer. The fiscal year 2015 President's budget request includes \$22 million in adjustments to base that sustains the momentum and positive steps the Bureau is made in fiscal year 2014 to address areas of concern and vulnerability. In particular, ATF anticipates that a sustained hiring and training effort will be required over the next several years in order to maintain ATF's special agent cadre and ensure that ATF's mission capability is not degraded due to retirements and attrition.

UNACCOMPANIED ALIEN CHILDREN

Question. Have you considered developing dockets in immigration courts dedicated to children, so that non-profit organizations and pro bono attorneys can better coordinate legal representation and child advocates for children? If so, what steps have you taken thus far?

Lead-in information from original document.—

A recent surge in widespread organized crime and violence in Central America has led to an unprecedented increase in the number of unaccompanied alien children (UAC) crossing the U.S.-Mexico border. Many of these children wind up in the custody of the Office of Refugee Resettlement. I applaud the work done for these children by the Legal Orientation Program. However, the Program doesn't serve children who have been released from custody. Considering the increased numbers of these children, and the fact that many of those already released from custody still have pending immigration cases, more has to be done to ensure these children have Child Advocates and attorneys to represent them navigate immigration court.

Congress allocated \$315 million for the Executive Office for Immigration Review (EOIR) and the Office of the Pardon Attorney in the 2014 Consolidated Appropriations Act (Public Law 113-76), instructing DOJ to "better serve vulnerable populations such as children," and "improve court efficiency through pilot efforts aimed at improving legal representation."

Answer. EOIR has established "juvenile dockets" throughout the country to facilitate consistency, encourage child-friendly courtroom practices, and promote pro bono representation for unaccompanied alien children (UAC). Currently, there are juvenile dockets in 26 immigration court locations. In addition, DOJ has appointed an Assistant Chief Immigration Judge (ACIJ) for vulnerable populations, who has the responsibility for continuing the development and implementation of EOIR policy concerning vulnerable populations. The ACIJ is focusing on the UAC population in particular, and is working with EOIR's Office of Legal Access Programs and the various immigration courts to further improve training for court staff, as well as examine and implement improved procedures for handling UAC cases.

Question. Will the DOJ take steps to allocate funds to provide legal representation for unaccompanied children?

Answer. The Department of Justice, through EOIR, entered into a strategic partnership with the Corporation for National and Community Service (CNCS), which operates the AmeriCorps national service program, to provide legal aid to certain unaccompanied minors and to improve the effective and efficient adjudication of immigration removal proceedings involving those children. The Justice Department and CNCS partnership, known as Justice AmeriCorps, responds to Congress' direction to EOIR in its fiscal year 2014 appropriation "to better serve vulnerable populations such as children [and to] improve court efficiency through pilot efforts aimed at improving legal representation." On September 12, 2014, CNCS awarded \$1.8 million in grants to organizations and coalitions providing services at approximately 17 sites. It is anticipated that the organizations and coalitions will begin providing legal representation services in January 2015.

In addition, EOIR allocated \$200,000 in funding to the Vera Institute of Justice to provide direct legal representation for unaccompanied children appearing before the Baltimore Immigration Court. The Baltimore Representation Initiative for Unaccompanied Children will be operational January 2015.

Question. Will the DOJ commit to looking at how to expand access to legal counsel for immigrant children?

Answer. The Department of Justice is committed to looking at how to expand access to legal counsel for immigrant children. In addition to launching the Justice AmeriCorps program and the Baltimore Initiative to provide legal aid to unaccompanied children, the Department continues to work closely with other government agencies and non-profit organizations to explore ways to increase access to legal services for unaccompanied children in removal proceedings, as well as other vulnerable populations. Over the past several years, EOIR, together with its government

and non-governmental partners, has made great strides to improve the adjudication process for children. These include:

- Issuing guidance to immigration court staff to implement more child-friendly court practices and improve access to pro bono legal services.
- Creating special children’s dockets at the majority of immigration courts to better accommodate pro bono legal services and implement more child-friendly court practices.
- Expanding Immigration Judge training for hearing cases involving children.
- Facilitating Legal Access Programs funded by the Office of Refugee Resettlement (ORR), which provides “know your rights” presentations and pro bono legal services at all ORR shelter care locations.
- Creating the Legal Orientation Program for Custodians of UAC (LOPC), which funds non-governmental organizations to provide legal orientation presentations and pro bono referral services to the custodians (adult caregivers) of UACs. The purpose of this program is to inform UAC custodians of their responsibilities in ensuring the child’s appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation and trafficking. In fiscal year 2014, EOIR allocated \$2.5 million in funding to this program.
- Engaging public stakeholders to improve access to pro bono legal services, especially for children and family groups. These ongoing efforts have included large stakeholder meetings with EOIR’s Director, Deputy Director, and Assistant Chief Immigration Judges in cities with the largest unaccompanied child populations.

IMMIGRATION COURT BACKLOG

Question. Assuming that the 35 new immigration judge teams were to be filled, would that suffice for EOIR’s needs?

Answer. Hiring 35 Immigration Judge teams will assist EOIR with managing the incoming caseload. As of November 2014, EOIR’s Immigration Judge Corps consists of 241 Immigration Judges, which is below an optimal staffing level to appropriately address the incoming and pending caseload. In light of the ongoing surge in immigration, especially along the Southwest Border, EOIR initiated the hiring of more than 30 Immigration Judges in fiscal year 2014 to address a longstanding shortfall exacerbated by a 5 percent to 10 percent attrition rate per year. EOIR anticipates the above-mentioned 35 Immigration Judge teams in 2015 will allow EOIR to better address the incoming caseload and begin to reduce the pending caseload.

Question. What impact will an additional 35 immigration judge teams have on the existing backlog?

Answer. The addition of 35 Immigration Judge Teams will allow EOIR’s immigration courts to process a greater number of pending cases. The number of pending cases over time depends on the volume of existing cases, new charging documents filed by the Department of Homeland Security (DHS), and case completions. EOIR’s current pending caseload volume in fiscal year 2014 is approximately 389,000 proceedings. The number of annual completions by an Immigration Judge varies according to a number of factors, including the type of docket to which the judge is assigned. Taking into account variable completion rates among judges, EOIR estimates that 35 additional Immigration Judge (IJ) teams will likely complete between 21,000 and 28,000 proceedings annually. The effect of this added productivity upon the pending caseload or backlog will depend on the number of additional charging documents filed by DHS during the same period. Finally, any gains in staffing and productivity may be lowered slightly due to normal staff attrition.

Question. What other steps is EOIR taking to promote efficiencies to address the immigration court backlog?

Answer. EOIR continues to work closely with DHS, other government agencies, and non-profit organizations to explore ways to promote efficiencies to address the immigration courts pending caseload. In conjunction with these groups, EOIR has conducted test pilots across the country in the areas of non-contested dockets, alternatives-to-detention, pre-trial conferences, and unaccompanied alien children scheduling adjustments to try to streamline immigration proceedings.

To improve the effective and efficient adjudication of immigration removal proceedings for vulnerable populations, such as unaccompanied alien children and detained aliens who are deemed mentally incompetent to represent themselves in immigration proceedings, EOIR dedicated over \$3 million in fiscal year 2014 resources to provide legal aid services to these populations.

Additionally, in fiscal year 2014, EOIR dedicated approximately \$6.6 million for the Legal Orientation Program (LOP), which improves efficiencies in immigration court proceedings for detained aliens by increasing their awareness of their rights

and the overall process. As a result of the increased funding provided in fiscal year 2014, EOIR expanded the program to provide these services at five additional adult facilities and four family detention facilities. Today, the LOP is available at 32 sites across the country. Evaluation reports have shown that LOP participants complete their immigration court cases in detention an average of 12 days faster than detainees who do not participate in an LOP, which saves the Government approximately \$16.6 million annually. EOIR has requested another \$2.8 million in fiscal year 2015 to respond to elevated demand at existing LOP sites and to add 12 more sites.

Question. Since many people in immigration court lack attorneys and a basic understanding of the immigration court process, what steps is EOIR employing, or considering, to give these people better access to information so they can move through court proceedings more expeditiously without sacrificing due process?

Answer. EOIR has established an Office of Legal Access Program to administer several programs and initiatives to provide people with better access to legal information and counsel. The programs and initiatives include: the Legal Orientation Program (LOP), the Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC), Self Help Legal Centers, Self Help Guides, Model Hearing Program, and Pro Bono Liaison Judge meetings.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

NEW ORLEANS CONSENT DECREE

Question. What is causing the delay in Department of Justice's review of the New Orleans Police Department's policies?

Lead-in information from original document.—

As you know the New Orleans Police Department entered into a consent decree with the Department of Justice in 2012. A Federal court imposed an October deadline for the review of important policies and those policies have not been fully reviewed.

Answer. A comprehensive Consent Decree designed to bring the New Orleans Police Department (NOPD) into compliance with the Constitution is in place, and in July 2013 the court appointed an experienced monitoring team to oversee implementation of the Decree.

The Department and the city of New Orleans, with the Court's approval and oversight, have worked cooperatively to devise a policy review process that will allow the NOPD to adopt and implement policies that are consistent with the law as quickly and efficiently as possible.

NOPD has provided a limited number of policies to DOJ and the Consent Decree Monitor ("Monitor"), and both DOJ and the Monitor have provided comments and suggestions regarding those policies in a timely manner. NOPD, DOJ, and the Monitor have worked together to revise those policies to ensure that they comply with the Consent Decree and applicable law, and to ensure that they will be effective for NOPD's particular needs. In some instances, that process is ongoing. In others, that process has been completed and DOJ and the Monitor have provided final approval for NOPD to adopt and implement those policies.

The Department continues to work closely with the city and police department, as well as the Monitor, to facilitate transformative change and ensure reform of the New Orleans Police Department. The Department has reviewed, and will continue to review, all policies submitted to it in a timely fashion and in compliance with the Decree and all Court Orders.

Question. What process is the Department of Justice utilizing to review NOPD's policies? Are there subject matter experts within the DOJ who are actively engaged in the review of the policies? If not, are the DOJ lawyers qualified to adequately and efficiently review the policies?

Answer. Once NOPD submits policies to DOJ and the Monitor, DOJ lawyers review those policies to ensure that they comply with the law and the Consent Decree, are internally consistent, and provide NOPD officers with effective guidance. In performing that review, DOJ lawyers consult the Monitoring team, subject matter experts, and any other necessary sources in order to ensure that the review is thorough and effective.

Question. Did the Department of Justice analyze the effects of creating the office of police secondary employment in New Orleans? Has the Department of Justice ever included provisions related to secondary employment in any other consent decree? If so, in which municipalities?

Answer. The Department's investigation of NOPD revealed that NOPD's unregulated system of secondary employment was a significant contributor to unconstitutional policing in New Orleans. As detailed in the Department's findings letter, unregulated secondary employment both undermines the accountability structure within NOPD and encourages corruption, favoritism, and unprofessional and unconstitutional policing more broadly. For these reasons, which were specific to NOPD, for the first time, provisions related to secondary employment were included in the Consent Decree, which the city has agreed, and the Federal courts have found, is fair, adequate, and reasonable. In crafting the Consent Decree, DOJ worked with the city to create a system that would allow officers to continue to work secondary employment, but that would also address the ways in which secondary employment has contributed to a pattern or practice of unconstitutional conduct. DOJ remains committed to working with the city to ensure that its secondary employment system is fair and accountable.

Question. Has the Department of Justice undertaken any efforts to regulate the Orleans Parish Sheriff's Office's paid detail system? Does the Department of Justice have a position on whether OPSO's staffing levels in the jail are affected by deputies performing paid details? Has the Department of Justice undertaken that analysis in light of its stated position that staffing is a major issue at the jail?

Answer. The Department of Justice is enforcing compliance with the consent judgment it achieved in *Jones v. Gusman*, 12cv859, a pattern or practice civil rights case addressing conditions in the Orleans Parish Prison. Secondary employment by Sheriff Deputies is beyond the scope of that agreement. As required by the Prison Litigation Reform Act (PLRA), the terms of the consent judgment are narrowly tailored to address the constitutional violations in the jail. Among other terms, the consent judgment requires correctional staffing and supervision that is sufficient to adequately supervise prisoners, fulfill the terms of the consent judgment, and allow for the safe operation of the jail, consistent with constitutional standards. In February 2014, as required by the consent judgment, the Orleans Parish Sheriff's Office provided a staffing analysis and plan to all parties to the consent judgment and to the city of New Orleans. Staffing remains a very serious problem at the jail and the United States is attempting to determine the causes of the problem in the context of the litigation. The United States is aware of a substantial increase in the hiring of Deputies for paid details and assessing whether that increase has an impact on the implementation of the consent decree or raises justiciable issues. The Department of Justice is committed to vigorously enforcing the consent judgment, including all PLRA-compliant measures to achieve adequate staffing and supervision to address the ongoing unconstitutional conditions and unacceptable levels of violence in the jail.

QUESTIONS SUBMITTED BY SENATOR JEFF MERKLEY

WHITE COLLAR CRIME PROSECUTION

Question. How many criminal prosecutions and convictions has the DOJ secured related to the 2008 crisis? If there is a stark difference, why is that so? To what degree have inadequate resources constrained DOJ's efforts? How many DOJ prosecutors work full time on white collar crime? Can you give me specific numbers on the following types of crimes (differentiate between full time and as a percentage of individual portfolios, please also differentiate from those who have been detailed to other assignments):

- mortgage and securities fraud;
- market manipulation in derivatives, oil or other commodities, financial indices, or currencies;
- offshore tax evasion;
- money laundering and sanctions; and
- payment system and other financial fraud.

Lead-in information from original document.—

In the Savings and Loan Crisis in the 1980's pervasive fraud led to economic disaster. The DOJ during those years aggressively stepped up its white collar task forces and over 150 people from DOJ and Treasury worked on Savings and Loan fraud full time. By 1992, there had been over 1,100 criminal prosecutions with over 839 convictions.

By contrast, the DOJ's response to the recent crisis appears much more muted.

Answer. With regard to your first question on the number of criminal prosecutions and convictions that the Department has secured related to the 2008 crisis, it must be stated at the outset that the Department's position is, and always has been, that no person, and no corporation, is above the law. The Department is committed to aggressively investigating allegations of wrongdoing at financial institutions and, along with our law enforcement and regulatory partners, holding individuals and corporations responsible for their conduct through the criminal, civil, and administrative enforcement tools available to us. That being said, it is difficult to pinpoint precisely which cases are and are not directly related to the catastrophic economic events that began unfolding in 2008. What we can report is that the Department has prosecuted an incredible number of financial fraud cases since the inception of the financial crisis. Specifically, from fiscal year 2008 through the second quarter of fiscal year 2014, the United States Attorneys' Offices filed 21,544 financial fraud cases against 31,349 defendants.¹ During that same time period, 28,496 defendants were convicted of financial fraud crimes, and 18,063 were sentenced to prison for such crimes. Some of the more notable individuals in the financial industry prosecuted in the aftermath of the financial crisis are:

- JP Morgan (London Whale individuals)
- Goldman Sachs (Rajat Gupta; Matthew Taylor)
- Morgan Stanley (Garth Peterson)
- Credit Suisse (Kareem Serageldin and several others)
- UBS (2 London Interbank Offered Rate (LIBOR) individuals and individuals in antitrust cases)
- Rabobank (3 LIBOR individuals)
- ICAP (3 LIBOR individuals)
- Galleon (Rajaratnam and several others)
- SAC Capital (many)
- Stanford Financial Group (Allen Stanford and others)

Further, with respect to prosecutions of institutions, beginning in 2013, the Department has obtained guilty pleas from the following financial industry institutions:

- UBS Subsidiary (LIBOR) (plus \$100 million fine)
- RBS Subsidiary (LIBOR) (RBS parent paid \$100 million penalty)
- SAC Capital (plus \$1.8 billion in fines and forfeiture)
- Wegelin (Swiss Bank)

Moreover, in November 2013, the Department announced the largest settlement with a single entity in American history: a \$13 billion settlement with JPMorgan, to resolve Federal and State civil claims arising out of the packaging, marketing, sale and issuance of residential mortgage-backed securities by JPMorgan, Bear Stearns and Washington Mutual.

With regard to your second question on the differences between the 1980s savings and loan (S&L) crisis and the 2008 financial crisis, the circumstances of the two situations and the types of criminal conduct found in those two events were vastly different. In the S&L crisis, in part because of pervasive speculative lending practices by financial institutions, financial institution examiners and Federal investigators were confronted with hundreds of failed financial institutions across the country. The FBI's investigations of failed financial institutions reached its peak at 758 in July 1992. Financial Institution Fraud Unit, Financial Crimes Section, FBI, Financial Institution Fraud and Failure Report—Fiscal Year 2002 at 2–3 (2002), <http://www.fbi.gov/stats-services/publications/fiff-2002>. Moreover, during the period of the late 1980s to the early 1990s, approximately 60 percent of the fraud reported by financial institutions related to bank insider abuse. *Id.* at 1. Those financial practices, which often involved collusion between bank insiders and outsiders as well as falsification of records by bank insiders regarding particular loans and borrowers, were vastly different in types from those associated with the 2008 crisis.

With regard to your third question, concerning the degree to which inadequate resources have constrained the Department's efforts, the Department has sought appropriate resources to pursue all types of white-collar crime. The Department's efforts to combat financial fraud will continue to play a key role not only in ensuring that those who have engaged in fraudulent activities will be held accountable for their illegal conduct, but in deterring future fraudulent conduct and in recovering funds for fraud victims.

¹Financial fraud encompasses the following program categories: Federal procurement fraud; Federal program fraud; financial institution fraud; bankruptcy fraud; advance fee schemes; other fraud against businesses; consumer fraud; securities fraud; commodities fraud; other investment fraud; mortgage fraud; or corporate fraud.

With regard to your fourth and fifth questions, regarding the number of Department of Justice prosecutors who “work full time on white collar crime,” the Department does not maintain the precise type of statistical data you are seeking. While Assistant United States Attorneys often specialize in certain areas of criminal law and are assigned to specific sections within their offices’ criminal divisions, they are generally not required to work full-time in any one area. This allows the United States Attorneys’ offices flexibility in assigning cases and managing workload. Prosecutors track their time using category codes that describe the types of cases on which they have worked (e.g., white collar crime, violent crime, immigration). In fiscal year 2008, the United States Attorneys’ offices devoted more than 831 full-time equivalent (FTE) workyears to white collar crime.² That number has increased every fiscal year since then. The largest increase was between fiscal year 2008 and fiscal year 2009, when the number of FTE devoted to white collar crime rose by more than 100 FTE. The table below shows the FTE workyears for white collar crime over the last six fiscal years, including overtime hours (hours in excess of 40 hours per week) that average more than 200 additional FTE per fiscal year.

[See Table below]

Although there are white collar crime subcategories to which prosecutors can assign time, they are limited to financial institution fraud and healthcare fraud. Consequently, the Department cannot break down white collar crime FTE workyears according to the specific categories you identified. There are, however, specific components of the Department that are dedicated exclusively to prosecuting one or more types of white collar crime. With regards to the types of white-collar crime mentioned in your questions, relevant components would include the Fraud Section of the Criminal Division, the Criminal Enforcement Sections of the Tax Division, and the Criminal Sections of the Antitrust Division. The Fraud Section of the Criminal Division has approximately 100 trial attorneys and supervisors, the Criminal Enforcement Sections of the Tax Division also have approximately 100 trial attorneys and supervisors, and the Criminal Sections of the Antitrust Division have approximately 101 trial attorneys and supervisors.

WHITE COLLAR CRIME FTE

Workyears	Fiscal year 2008	Fiscal year 2009	Fiscal year 2010	Fiscal year 2011	Fiscal year 2012	Fiscal year 2013
Attorney Workyears	831.66	944.80	982.71	1028.79	1029.76	1067.29
Attorney 40 + Workyears	180.65	194.32	226.29	227.75	226.07	225.75
Attorney and 40 + Workyears	1012.31	1139.12	1209.00	1256.54	1255.83	1293.04

PAYMENT FRAUD

Question. I’m very concerned about financial institutions and payments providers engaging in payments fraud or providing services to those engaged in illegal activities, such as lending into States in violation of State payday lending laws. Are you committed to continuing to investigate and pursue payment fraud and crack down on institutions that clear payments for illegal lenders?

Answer. The Department of Justice (DOJ) is committed to protecting the American people from fraudulent practices in all industries. The Financial Institutions Reform, Recovery and Enforcement Act (“FIRREA”) allows for civil penalties in a variety of situations in which frauds are perpetrated affecting federally insured financial institutions. Those situations include instances where a financial institution knowingly participates in a fraud or processes transactions deliberately ignoring evidence that they are fraudulent. One key DOJ mission is to investigate violations of Federal law, especially those involving fraudulent conduct that threatens to harm the American public. We are working diligently to protect the public from this fraud by holding accountable those banks and payment processors that violate Federal law.

QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER A. COONS

VICTIMS OF CHILD ABUSE ACT

Question. Last year, Congress demonstrated its commitment to helping victims of child abuse by appropriating \$19 million under the Victims of Child Abuse Act. I

²One FTE equals 2080 hours.

welcome DOJ's fiscal year 2015 request of \$11 million for these programs, especially compared to levels in past budgets. Does DOJ plan to embrace an increased role in helping victims of child abuse in 2015 and beyond?

Answer. The fiscal year 2015 President's budget request for the Office of Justice Programs (OJP) reflects the administration's strong support for addressing the needs of young people within the justice system and its commitment to promoting evidence-based programs and practices throughout the criminal and juvenile justice systems. The fiscal year 2015 President's budget request supports programs to serve victims of child abuse, to prevent and address youth violence, to improve outcomes of young people involved in the juvenile justice system, and ensure that all kids, particularly at-risk kids, are not swept up into the juvenile justice system. The request includes increased or continued funding for programs such as the Defending Childhood/Children Exposed to Violence Program (\$23 million), Missing and Exploited Children's Programs (\$67 million), and Title V Prevention Programs (\$42 million)—a combined \$34 million increase in fiscal year 2015 over the fiscal year 2014 enacted levels for these programs.

DOJ remains committed to utilizing existing resources to address the most urgent national priorities and to ensure the most efficient possible use of the juvenile justice funding appropriated under OJP. OJP will continue to respond to the changing needs of the juvenile justice community by providing greater flexibility in the use of funding (where allowed by statute) and improving coordination of these programs with other juvenile justice programs. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) also will look at how other resources can be leveraged to help the Child Advocacy Centers (CACs) and Multi-Disciplinary Teams (MDTs) operate more efficiently and cost effectively.

BULLETPROOF VEST PROGRAM

Question. In your proposed fiscal year 2015 budget, you requested \$22.5 million for the Bulletproof Vest Partnership Program. As you may know, I have joined several other Senators in advocating for a \$30 million appropriation for this program. What impact would this additional \$ 7.5 million have on DOJ's ability to help State and local law enforcement acquire this life-saving equipment?

Answer. The Bulletproof Vest Partnership (BVP) Program fills a critical need for State, local, and tribal law enforcement and public safety agencies by reimbursing them for up to half of the cost for qualifying, life-saving body armor for their officers. The fiscal year 2015 funding request of \$22.5 million is equal to the fiscal year 2014 enacted level and will allow this program's activities to continue at their current level of effort. An additional \$7.5 million would allow jurisdictions to purchase an estimated 8,700 additional vests.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

FISCAL YEAR 2015 BUDGET CUTS

Question. Why does the budget include undefined reductions to programs instead of providing an accurate funding picture for the Department? More importantly, why must these difficult decisions be made after the appropriations bills have passed?

Lead-in information from original document.—

The 2015 budget includes more than \$500 million in programmatic cuts. I am curious why the Department failed to identify these cuts in advance of the budget submission. Moreover, I question whether law enforcement components can actually deliver the level of cuts required.

Answer. The fiscal year 2015 budget provides an accurate funding picture of the Department by estimating the actual fiscal year 2015 current services need, or the cost to maintain current operations and staffing levels planned through fiscal year 2015. In addition, the fiscal year 2015 budget is fiscally responsible in terms of spending because it meets the caps set by Congress in the Bipartisan Budget Act of 2013. In order to adhere to the congressionally directed caps, the DOJ Federal programs must absorb \$503 million in unspecified program and administrative offsets. These offsets support anticipated inflationary increases, such as the costs for base pay, benefits and rent. These offsets are unspecified because of the limited time available between the enactment of the Bipartisan Budget Act and the conclusion of the fiscal year 2015 budget process. The \$503 million in proposed offsets represents a fraction of the \$1.6 billion in sequester cuts that the Department absorbed

during the last 9 months of fiscal year 2013. DOJ program managers will have this fiscal year to identify opportunities for savings and prepare for the offsets.

Question. Do you really believe that the FBI can cut \$168 million, the U.S. Marshals Service can find \$33 million, or that the U.S. Attorneys can eliminate \$30 million from their budget—without cutting core mission requirements or essential personnel? And if so, why didn't you require them to do so before the budget was released?

Answer. The Department proposed programmatic reductions in order to adhere to the fiscal year 2015 caps set by Congress with the Bipartisan Budget Act of 2013. The fiscal year 2013 sequester cut the salaries and expenses (S&E) appropriations of the Federal Bureau of Investigation (FBI) by \$541.7 million, U.S. Marshals Services (USMS) by \$59.1 million and U.S. Attorneys (USA) by \$98.6 million. These cuts were much deeper than the programmatic offsets the fiscal year 2015 budget proposes and components will have more time to consider how to identify savings. Core mission requirements are not threatened because even with the proposed fiscal year 2015 offsets, S&E funding will essentially remain flat from the fiscal year 2014 appropriated levels for the FBI, USMS and USA.

DOJ CUTS

Question. According to your own statements, sequestration was devastating to the Department and its ability to perform core mission activities—why then will this version of sequestration be less devastating? Is there really that much fat to trim inside the Department of Justice?

Lead-in information from original document.—

In a 2013 Washington Post Op Ed on the impact of sequestration you said, "This shameful state of affairs is unworthy of our great Nation, its proud history and our finest legal traditions. In purely fiscal terms, the cuts imposed by sequestration defy common sense . . ." By eliminating the discretionary sequester for 2014 and 2015 Congress has done its part to ensure that the Department can be properly funded. However, the Department's decision to include its own version of a sequester in the 2015 budget request defies logic.

Answer. The fiscal year 2015 request demonstrates the Department's continued commitment to fiscal prudence and adheres to the spending caps directed by Congress in the Bipartisan Budget Act of 2013. The fiscal year 2014 Appropriations Act restored the fiscal year 2013 sequester funding cuts to the Department and provides sufficient resources to lift the hiring restrictions put in place on January 21, 2011. Even with the proposed program offsets, law enforcement funding essentially remains flat from fiscal year 2014 to fiscal year 2015. However, these levels are significantly higher than the fiscal year 2013 sequestered funding levels that hindered the Department's capacity to perform its mission. For example, funding for the Federal Bureau of Investigation increases by nearly 11 percent from fiscal year 2013 and funding for the U.S. Marshals Service and U.S. Attorneys increases by nearly 7 percent from fiscal year 2013.

SMART CRIME INITIATIVE

Question. First, what authority do you currently have to alter incarceration rates? Can you reduce sentences for incarcerated criminals, can you change the minimum sentence required for a drug crime—what action can you take?

Lead-in information from original document.—

The budget advances the Smart on Crime Initiative which seeks to reform the criminal justice system by improving public safety and saving money. Reducing the number of "low-level" Federal crimes prosecuted and pursuing alternatives to incarceration are listed as two of the initiative's core principals. While reform of our criminal justice system is a laudable goal, I am concerned that the principals of the proposal may be contradictory and in fact, lead to higher crime rates and an increase in the number of serious crimes committed.

Answer. Once a Federal offender is sentenced by a Federal judge, the Department of Justice generally cannot reduce the sentence imposed. But before sentencing, Federal prosecutors have always exercised discretion in the cases they bring and offenses they charge. Most criminal prosecutions are brought at the State level. Within that context, Federal prosecutors maximize the Federal enforcement contribution to improving public safety efforts by prosecuting the right criminal cases consistent with our mission. Our U.S. Attorneys set quality, evidence-based priorities for the types of cases we bring with an eye toward promoting public safety, deterrence, and

fairness. This necessarily means focusing our resources on the most significant cases.

Question. You have stated that the Department will shift to a focus solely on the most serious cases. First, I wonder how such a shift is not negligent. Second, how can you be sure that a focus on only the most serious cases will not result in an increase in crime rates or an escalation in the number of serious crimes committed?

Answer. As stated above, most criminal prosecutions are brought at the State level. Federal prosecutions contribute to public safety efforts by prosecuting cases consistent with our particular mission. Our U.S. Attorneys collaborate with their State and local partners and set quality, evidence-based priorities for the types of cases we bring so that all of the public safety resources—local, State and Federal—working together, will maximize public safety, deterrence, and fairness. This means in most districts focusing our Federal resources on the most significant cases. It does not mean that lower level offenders are not held accountable for their crimes. It does mean that Federal resources will be focused—as they must be given limits on those resources—on the more serious cases.

Question. What happens to the criminals we decline to prosecute?

Answer. Many lower level offenders will be prosecuted at the State level. However, some will be subject to diversion or other alternatives to imprisonment. These alternatives have a long history and allow non-violent, less serious offenders who are in need of drug treatment, for example, to receive such treatment in lieu of imprisonment. If crafted properly, these alternatives can have the twin effects of reducing the burden on the Federal prisons and reducing crime rates.

Question. Is this proposal the best path forward or is it simply a means to reduce the overall prison population in hopes of decreasing Federal spending on incarceration?

Answer. The Smart on Crime Initiative is modeled after many State criminal justice reforms, which have reduced prison spending while improving public safety in States across the country. We continue to monitor and work with the States to determine the best approaches to achieving improved public safety while also achieving cost efficiencies.

Question. Will this initiative simply shift more of the burden to the States?

Answer. No. As stated previously, while many lower level offenders will indeed be prosecuted at the State level, some will be subject to diversion or other alternatives to imprisonment within the Federal criminal justice system.

TEDAC/HDS/NCETR FACILITIES

Question. Could you speak to the importance of the facilities individually and collectively? Would you also explain how these facilities fit into the larger national security framework?

Lead-in information from original document.—

After many years of working with the Department and the FBI, I was pleased to see that the 2015 budget included \$15 million for the FBI's new TEDAC Facility. The budget also includes funding for the FBI's Hazardous Devices School and the ATF's National Center for Explosives Training and Research. These facilities are unique and serve important functions in the overall national security framework.

Answer. The FBI's Terrorist Explosive Device Analytical Center (TEDAC) and Hazardous Devices School (HDS) and ATF's National Center for Explosives Training and Research (NCETR) serve extremely important functions in protecting public safety and national security. While these three facilities are focused on combating explosives and their threat to the Nation, they each perform discrete missions in the phases of the forensic, intelligence and training cycle.

TEDAC: Improvised Explosive Devices (IEDs) are one of the most readily available weapons utilized by terrorists and criminals to damage critical infrastructure and inflict casualties. The U.S. Government relies on TEDAC to conduct forensic and technical exploitation of IEDs and related materials collected around the globe in order to gather and share intelligence with domestic and foreign partners to identify bomb makers, to develop techniques to disarm and disrupt IEDs, and most importantly, to prevent future attacks. TEDAC also shares device design information with HDS to inform the training provided to bomb technicians responsible to render IEDs safe and protect our citizens.

In February 2013, the President updated the national strategy focused on countering the IED threat. The implementation plan resulting from the updated policy statement calls for a "single U.S. Government strategic-level IED exploitation center and repository of IEDs." TEDAC fulfills this mission and is the only U.S. Govern-

ment entity that meets the requirement outlined in the 2013 Counter IED Implementation Plan. TEDAC operations will transition over the next few years from Quantico, Virginia to new facilities in Huntsville, Alabama, as a multi-phased construction effort concludes. These new facilities will enable TEDAC to continue supporting the national security framework through operations, such as nominating individuals to the Terrorist Screening Database and the Department of Defense Biometric Enabled Watchlist (BEWL), which biometrically matches IEDs examined by TEDAC to those included in DOD's Automated Biometrics Identification System (ABIS). In addition to continuing current operations, the facilities will house the TEDAC Improvised Explosives Detection and Synthesis (TIEDS) Center, which is a research and development partnership with the Department of Homeland Security (DHS). The TIEDS Center will conduct research and experimentation focused on improvised explosives synthesis and characterization, improvised explosives detection technologies, and testing and evaluation of Render Safe Procedures and tools in order to deliver real time information on IED threats to the intelligence, law enforcement, and homeland security communities. TEDAC's vast research experience with IEDs and visibility into the threat will allow for the development of appropriate countermeasures for TSA and other members of the homeland security community to stay ahead of the IED threat.

The intelligence gleaned from TEDAC exploitation and analysis also feeds directly into curriculum development for training conducted by HDS. This enables bomb technicians and law enforcement partners to receive training on real threats that are being encountered worldwide and what countermeasures are needed for defeat.

HDS: The HDS operates through a joint partnership between the FBI and the United States Army. The FBI administers HDS and maintains the sole authority to certify and accredit all of the approximately 3,100 public safety bomb technicians assigned to 468 public safety bomb squads in the United States. The success of the public safety bomb technician community in the United States is, in large part, the result of standardized certification and render-safe procedure training. The standardized training at HDS enables bomb technicians assigned to different bomb squads to work effectively together in complex, multi-jurisdiction operations, such as the Boston Marathon bombing response or the dozens of special events held each year, including the Super Bowl.

HDS also provides advanced training in evolving threats such as radio-controlled IEDs, large vehicle-borne IEDs, suicide bombers, and improvised or homemade explosives. HDS develops and provides this training to address the threats posed by devices used by terrorists and criminal enterprises around the world. The intelligence that TEDAC provides through device exploitation is critical to defining and implementing advanced render safe training.

Finally, standard certification and training is critical to national security as public safety bomb technicians trained at HDS are the first line of defense against the full spectrum of IED threats, including weapons of mass destruction (WMD). HDS trains bomb technicians to identify a potential WMD, to notify the FBI, and to integrate seamlessly with FBI Special Agent Bomb Technicians and national assets, should such resources be required. Without the standardized training that HDS provides, there is a real risk that Federal WMD response assets would not be notified about a potential WMD in time to take emergency action.

In addition to TEDAC's identified role in the national Counter-IED strategy, the FBI, on behalf of the Department of Justice, leads the Joint Program Office for Countering IEDs, which coordinates the efforts of the Department and oversees the implementation of the U.S. policy to Counter IEDs.

NCETR: The ATF's NCETR serves an integration function for ATF by bringing together NCETR resources with the United States Bomb Data Center, ATF's international bomb and arson training, ATF criminal investigations, ATF industry operations, TEDAC and HDS. NCETR also consolidates key ATF explosives, fire, canine, and response operations in Huntsville, Alabama. NCETR consists of the Explosives Enforcement and Training Division, the Explosives Research and Development Division, and the Fire Investigation and Arson Enforcement Division, all located at Redstone Arsenal, along with the National Canine Division in Front Royal, Virginia and ATF's partnership in the National Explosives Task Force in Washington, DC. ATF provides training facilities and the expertise of its training staff in the delivery of life-saving advanced explosives and arson training for our Nation's explosives handlers, bomb technicians, criminal investigators, State and local law enforcement personnel, and our military's EOD operators at NCETR.

NCETR provides advanced explosives training and research that leverages lessons learned and best practices to provide focused support to ATF's core mission of inves-

tigating the criminal misuse of explosives and regulation of the industry, and to align this support with the whole-of-Government counter-IED effort.

NCETR employs a layered approach to explosives training in support of the Whole of Government approach to the C-IED effort, and to meet the goals and tasks of the JPO Training and Operations working group. As an example, ATF's Advanced Explosives Disposal Techniques (AEDT) was developed by ATF and its State and local partners in the 1990's to address the high incidence of injuries and deaths to bomb technicians during explosives disposal operations. AEDT provides a "cradle to grave" approach to the identification, handling and disposal of commercial, military and homemade or improvised explosives materials. Everything from production methods, storage, explosives range management, environmental concerns, personal protective equipment and clothing, and the latest disposal tools and techniques are covered in AEDT. This includes a ground-breaking disposal tool and related techniques developed by an ATF agent, for which the U.S. Patent Office issued a patent. The tool and instruction on its application to disposal operations is given to every bomb technician attending the course.

A follow up course entitled HME-Identification, Process and Disposal, furthers the bomb technicians' knowledge and confidence in the identification, processing, handling and disposal of some of the most dangerous explosives materials they will come in contact with, Homemade Explosives (HME). The HME course is attended by public safety bomb technicians as well as military Explosives Ordnance Disposal (EOD) personnel, stressing interoperability of personnel from both groups at scenes such as the Boston Marathon bombings.

These are but two of the courses at NCETR that naturally complement the training delivered at the FBI's Hazardous Devices School, the school house for bomb technician certification and other advanced training.

NCETR also provides training to military partners on a frequent basis. Through a long partnership and a full time liaison position with the Department of Defense (DOD), ATF delivers the HME-IPD course to a mixed class of public safety and military bomb technicians. NCETR program personnel have also developed HME-related and advanced Post-Blast investigation courses in support of requests by U.S. military command staff to support the NATO Centers of Excellence in Spain and Slovakia.

ATF is the only U.S. Government (USG) agency with fire and arson investigation as part of its core mission, and the sole USG agency with Special Agents qualified to testify as expert witnesses as to fire origin and cause, through the Certified Fire Investigator training program managed by NCETR. The programs that support that mission are now located at NCETR, including integrating ATF's fire investigation and arson enforcement operational and training programs, and support to the field through the National Response Teams, Certified Fire Investigators, and bomber and arsonist Profilers.

Operationally, NCETR oversees the National Response Team, which responds to major bombings and explosions, IED incidents, as well as fire and arson incidents that require resources beyond the capabilities of State and local partner agencies. NCETR also oversees the combined Certified Explosives Specialist and Explosive Enforcement Officer program, ATF's subject matter experts for criminal investigations of matters related to explosions, bombings, explosives, IEDs and related activity. Not only does NCETR manage the training of these personnel, but it also coordinates the operational responses of personnel from across the country to large incidents anywhere in the U.S., and to locations outside the U.S. on request from foreign partners through the U.S. State Department. Well over 90 percent of the criminal acts involving explosions, explosives and bombings are non-terrorism related and ATF has responsibility for investigation of these incidents, as well as the origin and cause investigation of accidental explosions.

The Explosives Research and Development Division (ERDD) at NCETR also supports ATF's role in the national security framework through a number of projects and ongoing and developing partnerships. ERDD is near completion in development of a \$2.2 million project to develop a homemade explosive synthesis capability/laboratory on Corkern Range. These range modifications include two portable explosives synthesis buildings, an extensive instrumentation capability, an explosive storage magazine, and hazardous materials storage. The research and testing that will be carried out on ATF's Corkern Range will support a wide range of government projects in support of the Nation's C-IED strategy, as well as ATF's explosives enforcement and regulatory missions.

ATF also has the sole responsibility for the regulation of the explosives industry, which is supported by NCETR training efforts. ATF Industry Operations Investigators (IOIs) attend Advanced Explosives Training for Investigators (AETI) at NCETR, focusing on the procedures required for completing the safe execution of in-

spections of Federal explosives licensee premises, as required by the Safe Explosives Act of 2002.

IG ACCESS TO DOJ DOCUMENTS

Question. Do you believe that the Inspector General should have to seek your approval to access grand jury documents relevant to ongoing investigations?

Lead-in information from original document.—

I am very concerned about the issues that have been raised by the Inspector General. Congress has been clear, as has this Committee, that the Inspector General must have unfettered access to any and all documents necessary to carry out his duties.

Answer. The Department's leadership appreciates the importance of access to information, including information subject to statutory disclosure restrictions, to the Office of the Inspector General's ("OIG") ability to perform its oversight function and complete its investigations and reviews effectively. However, where there are legal restrictions on what the Department can do with certain sensitive information, the Department is obligated to ensure that any distribution of the information is consistent with those congressional directives. The Department takes its obligation to abide by these legal requirements very seriously.

Section 6(a)(1) of the Inspector General Act of 1978 appropriately provides the Inspector General with broad access to the records in the Department. *See* 5 U.S.C. App. 3, § 6(a)(1). However, Congress also has enacted strict limits on the disclosure and dissemination of certain categories of sensitive information. For instance, in Federal Rule of Criminal Procedure 6(e), Congress codified the venerable tradition of grand jury secrecy by barring an "attorney for the Government" and other enumerated persons from disclosing "a matter occurring before the grand jury." Fed. R. Crim. P. 6(e)(2)(B). Similarly, in the Federal Wiretap Act, Congress expressly made it a crime to disclose information intercepted on a wiretap "[e]xcept as otherwise specifically provided in this chapter," and delineated the narrow conditions under which investigative and law enforcement officers might intercept, use, or disclose wiretap information. *See* 18 U.S.C. §§ 2511(1); 2516; 2517 (Title III).

The interaction between the general access provision in the Inspector General Act and Congress's specific statutory directives regarding the handling of sensitive information, such as Rule 6(e) and Title III, presents an unsettled and potentially complex legal question. As such, when questions regarding OIG's access to such materials arose in 2011 in connection with two OIG reviews, the Department sought to identify avenues within the relevant statutes that would permit disclosure of the requested materials to the Inspector General.

First, in connection with the material witness review, the Department concluded that Rule 6(e)(3)(D) authorized an attorney for the Government to disclose responsive grand jury information involving foreign intelligence to the OIG. The Department determined that the Inspector General was a Federal law enforcement official authorized to receive access to grand jury information involving foreign intelligence under this provision, and the disclosure would assist her in connection with the performance of her law enforcement duties, given that the material witness review involved allegations of misconduct by law enforcement agents that potentially reflected a violation of criminal law. Likewise, the Department concluded that section 2517(1) permitted the Federal Bureau of Investigation to disclose Title III wiretap information to the OIG in connection with the material witness review because OIG agents are "investigative officers" entitled to receive wiretap information in connection with their law enforcement duties. Again, since the material witness review involved allegations of misconduct by law enforcement agents that potentially reflected a violation of criminal law, this OIG review fulfilled the statutory requirement that disclosure be in connection with law enforcement duties.

With respect to the review of Operation Fast & Furious and related investigations, the Department concluded that Federal Rule of Criminal Procedure Rule 6(e)(3)(A)(ii) authorized the Attorney General, an "attorney for the Government," to disclose grand jury information to Government personnel in the OIG as necessary to the performance of the Attorney General's duty to enforce Federal criminal law, including his supervisory responsibilities over the Department's programs, policies, and practices related to the enforcement of Federal criminal law.

The Department is unaware of any specific materials that the OIG believed necessary to its reviews, but to which the OIG was not granted access. However, in light of the Inspector General's continued interest of in addressing the legal issues implicated by the competing congressional directives in section 6(a)(1) of the Inspector General Act and other statutes limiting the disclosure and dissemination of par-

ticular categories of sensitive information, the Department has requested formal Office of Legal Counsel (OLC) guidance. As we have informed the Department's OIG, if the outcome of the OLC's legal review does not assure the OIG of the access it needs to carry out its mission, the Department intends to work with that office to develop appropriate legislative remedies.

Question. What law or laws, in your view, prohibit the Inspector General from obtaining access to documents directly relevant to ongoing audits or investigations?

Answer. It is not the case that statutes restricting the disclosure of sensitive information necessarily "prohibit" the OIG from obtaining access to documents. As we explained in response to the previous question, the Department has found ways to disclose the requested information to the OIG pursuant to exceptions to the statutory prohibitions. Examples of statutes that we have had occasion to consider in the context of OIG requests include the restrictions contained in Federal Rule of Criminal Procedure 6(e) (grand jury information); the Federal Wiretap Act, Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (information obtained by wiretap); and section 1681u(f) of the Fair Credit Reporting Act (financial information obtained from credit agencies by FBI national security letters). The Department has not conducted a comprehensive survey of all statutes that might potentially restrict the disclosure of sensitive information in a manner that would raise a significant legal question about whether those statutory provisions limit the Inspector General's access to the covered information.

Question. If it is your view that there are specific laws that prohibit the Inspector General from having access to documents directly relevant to ongoing audits or investigations, what are the relevant sections within those laws granting you, the Attorney General, the authority to preempt those prohibitions?

Answer. As just described, statutory provisions restricting the disclosure of certain categories of information generally contain exceptions that might allow the OIG access to protected information in connection with investigations and audits. Some of these exceptions are premised on a determination by the Attorney General or another attorney responsible for conducting or supervising the prosecution of violations of Federal criminal law. Where the statute provides an exception to the general bar on disclosure that is premised on a determination by the Attorney General or another attorney for the Government, such a determination would be a prerequisite to the Inspector General gaining access to statutorily protected information under that provision. A determination by the Attorney General or another qualifying attorney authorizing the OIG to access the information, however, does not "preempt" a statutory bar on disclosure; rather, the determination that disclosure to the OIG is appropriate is simply an application of the terms of an exception Congress set out in the relevant statute. The Department is unaware of any specific materials that the OIG believed necessary to its reviews, but to which the OIG was not granted access.

Question. You mentioned that you have never denied the Inspector General's request to access documents. However, if that situation were to arise, what recourse would the Inspector General have, in your view, to appeal or challenge that decision?

Answer. As stated above, the Department is committed to continuing to ensure that, consistent with applicable legal requirements, the OIG has access to all of the information it believes necessary to complete its reviews. Indeed, the Department is unaware of any specific materials that the OIG believed necessary to its reviews, but to which the OIG was not granted access. The Department has requested a formal opinion from OLC to address the legal issues implicated by the competing congressional directives in section 6(a)(1) of the Inspector General Act and other statutes limiting the disclosure and dissemination of particular categories of sensitive information. This request is pending. If the outcome of the OLC's legal review does not assure the OIG of the access it needs to carry out its mission, the Department intends to work with that office to develop legislative remedies. In the meantime, if the Inspector General were dissatisfied with the access to statutorily protected information the Department afforded him, he could ask the Attorney General to reconsider any determination made regarding the application of a statutory exception.

Question. Since there has never been an official ruling by the Office of General Counsel at the Department of Justice regarding access to documents by the Inspector General, would you be willing to see an official ruling from the General Counsel on these matters? If so, when could we expect you to do so?

Answer. As stated above, the Department has requested a formal opinion from OLC to address the legal issues implicated by the competing congressional directives in section 6(a)(1) of the Inspector General Act and other statutes limiting the disclosure and dissemination of particular categories of sensitive information. This request is pending.

QUESTIONS SUBMITTED BY SENATOR LAMAR ALEXANDER

METH IN TENNESSEE

Question. Given that the methamphetamine epidemic is one of the most urgent drug problems facing our Nation, especially in rural communities with limited resources, why isn't the Department doing more to expand the Clandestine Drug Laboratory Cleanup Program?

Answer. Tennessee has been participating in the Drug Enforcement Administration's (DEA's) Authorized Central Storage (ACS or "Container") Program since July 2011. DEA receives funding for the Clandestine Drug Laboratory Cleanup Program from the Community Oriented Policing Services (COPS) program to assist State and local law enforcement with clandestine methamphetamine lab cleanups and training. After a shutdown of the cleanup program in February 2011 due to lack of funding, COPS funding was restored to restart the program in fiscal year 2012. Since that time DEA aggressively worked to expand the Container Program. There are currently 18 States with signed Letters of Agreement (LOA) with DEA for Container Programs with two more expected to be added by fiscal year 2016:

—At the end of fiscal year 2011, there were six States with operational container programs (Illinois, Indiana, Alabama, Kentucky, Oklahoma, and Tennessee).

—In fiscal year 2012, seven additional States (Arkansas, Michigan, Virginia, Ohio, North Carolina, Mississippi, and Florida) were operational.

—In fiscal year 2013, Kansas, New York, and Pennsylvania signed Letters of Agreement, which are expected to become operational in fiscal year 2014.

—In 2014, two States (Georgia and Iowa) were added and became operational.

Because of the expansion of the Container Program, DEA has been able to keep program costs down. This has allowed DEA to fulfill meth lab cleanup and training requests from the States participating in the Container Program, as well as fund on-site cleanups in the lower volume States that do not have high enough demand to sustain a Container Program economically. The Container Program has resulted in significant cost savings in States that have operational Container Programs (a contractor cleanup averages \$2,730, while a container cleanup averages \$306). In fiscal year 2013, DEA funded a total of 7,891 lab cleanups. Included in the total are the pickup and disposal of 7,099 labs through 220 Container Program pickups from the 10 States participating in the program, and 792 State and local cleanups DEA administered during the same time period. In fiscal year 2014, DEA funded a total of 8,213 lab cleanups. Included in the total are the pickup and disposal of 7,880 labs through 248 Container Program pickups from the 16 States participating in the program, and 333 State and local cleanups DEA administered during the same time period. While Kansas, New York and Pennsylvania have signed LOA's, they are not yet operational.

At the clandestine lab training facility, DEA trains Federal, State, local, and foreign law enforcement officials on the latest techniques in clandestine laboratory detection, enforcement, and safety. In fiscal year 2013, DEA provided clan lab training to 1,696 State and local law enforcement officers. In fiscal year 2014, DEA has provided clan lab training to 1,484 State and local law enforcement officers. Overall, DEA trained 39,932 law enforcement officers in fiscal year 2014. In addition to State and Local Clandestine Laboratory Certification Training, DEA also provided Site Safety Training, Tactical Training, and the FBI's National Improvised Explosive Familiarization Training course, which was also attended by the National Guard.

Question. Last year Congress provided \$7.5 million for a competitive grant program for State Anti-Methamphetamine Task Forces. When will the Department allow States to apply for these funds? What criteria will the Department use to evaluate proposals from States?

Answer. The fiscal year 2014 COPS Anti-Methamphetamine Program (CAMP) was designed to advance public safety through providing funds to investigate illicit activities related to the manufacture and distribution of methamphetamine. Funds awarded in this program shall be used for investigative purposes to locate or investigate illicit activities, including precursor diversion, laboratories, or methamphetamine traffickers through State and local collaboration. The COPS Office received 19 eligible applications and made 10 awards totaling approximately \$6 million.

Funding Provisions:

—Fiscal year 2014 CAMP grants provided funding for 24 months to State law enforcement agencies for equipment, overtime and other approved personnel costs for law enforcement officers assigned to the investigation of methamphetamine production and trafficking.

- Funding awarded to State law enforcement agencies may be used to support law enforcement personnel costs for allied agencies' officers participating in a State anti-methamphetamine task force.
- The COPS Office has identified an “up to \$1 million” cap on award amounts.

Eligibility:

- The fiscal year 2014 COPS Anti-Methamphetamine Program was a targeted competitive solicitation which will focus on funding State law enforcement agencies (note: this does not include DC, tribal agencies or the territories) with identified meth problems, as indicated through the following sources:
 - Meth lab seizures data
 - Precursor chemicals seizures data
 - Meth-related arrests data
 - Drug arrests for Meth
- State law enforcement agencies eligible to apply include, but are not limited to the following:
 - State AG's Offices
 - State Bureaus of Investigation
 - State Park Police
 - State Police Agencies

DOJ EFFORTS TO FIGHT COUNTERFEIT DRUGS

Question. What steps have you taken to meet that requirement? What challenges does the Department face prosecuting these cases, and does the Department need increased resources or authorities to improve law enforcement efforts against counterfeit drugs?

Lead-in information from original document.—

Drug counterfeiting is a serious public health threat. Nearly 40 percent of the drugs Americans take are made abroad, and about 80 percent of the active pharmaceutical ingredients used in our drugs are manufactured overseas. The Department and U.S. Attorney offices across the country play a critical role in fighting counterfeit drugs by investigating and prosecuting illegal counterfeiting activity. For example, last year three individuals were indicted in the Middle District of Tennessee for obtaining prescription drugs from “street collectors” in New York and Miami and selling them as if they had been obtained from the wholesale distribution market. Also last year, 11 people were indicted for illegal importation and distribution of counterfeit drugs from Turkey, India, and Switzerland. Law enforcement agencies face substantial challenges investigating and prosecuting these often complex, global crime operations. The operations are often located abroad and scattered in several countries. Law enforcement needs assistance from foreign regulators and foreign law enforcement officials to obtain information and gather evidence, which those countries are often unable or unwilling to provide.

The 2012 Food and Drug Administration Safety and Innovation Act (FDASIA) directed the Attorney General to give a higher priority to the prosecution of cases involving counterfeit drugs.

Answer. The Department has taken a number of steps to meet the requirement of the 2012 Food and Drug Administration Safety and Innovation Act (FDASIA).

In combatting counterfeit drugs, the Department of Justice holds the primary responsibility for the enforcement of intellectual property rights. The enforcement of such rights is vital in ensuring the safety and efficacy of the drugs that Americans take every day. Formed in 2010, the Department of Justice Task Force on Intellectual Property monitors and coordinates overall intellectual property enforcement efforts at the Department and ensures that it continues to remain a priority. It is chaired by the Deputy Attorney General. Under the leadership of the Intellectual Property Task Force, the FBI, and Justice Department components including the Criminal, Civil and Antitrust Divisions and the Bureau of Justice Affairs have worked to improve the protection of intellectual property, both in the U.S. and abroad. Upon the release of the administration's 2013 Joint Strategic Plan on Intellectual Property Enforcement (JSP), the Attorney General, in a posting on the Department of Justice Web site, stated, “the Department and its partners stand poised to take these critical efforts to a new level.” The posting is available at, <http://blogs.justice.gov/main/archives/3017>. The Department's core role within the JSP includes forging law enforcement partnerships, dedicating grant funding to these partners, and increased enforcement against counterfeit drug trafficking organizations.

Through the Office of Justice Programs' Intellectual Property Enforcement Program, the Bureau of Justice Assistance (BJA) funds State and local projects that emphasize collaboration and coordination with all relevant enforcement organizations, including prosecutors, multijurisdictional task forces, and appropriate Federal agencies (e.g., local Federal Bureau of Investigation offices and U.S. Attorneys' Offices) in the enforcement of Intellectual Property (IP) laws. Specifically in the area of counterfeit drugs, the Bureau of Justice Assistance administered a grant in fiscal year 2014, for Protecting Public Health, Safety, and the Economy from Counterfeit Goods and Product Piracy. This funding provided national support for and to improve the capacity of State, local, and tribal criminal justice systems to address intellectual property criminal enforcement. BJA also offered funding for National Training and Technical Assistance for the Intellectual Property Enforcement Program. Additionally, the National Crime Prevention Council (NCPC), supported by BJA, developed a research-based public outreach campaign to educate the public on IP crimes in general, particularly about the health and safety risks that result from IP crime.

The Department, through the U.S. Attorneys' Offices (USAOs), the Computer Crime & Intellectual Property Section (CCIPS) in the Criminal Division and the Consumer Protection Branch (CPB) in the Civil Division, has continued to prioritize and pursue investigations and prosecutions in every priority area identified by the Department of Justice Task Force on Intellectual Property ("IP Task Force" or "IPTF"), including cases involving health and safety, trade secret theft and economic espionage, large-scale online piracy and counterfeiting, and links to organized criminal enterprises. The JSP details ongoing enforcement initiatives, including the Federal Bureau of Investigation Intellectual Property Program, and is located at, <http://www.whitehouse.gov/sites/default/files/omb/IPEC/2013-us-ipeec-joint-strategic-plan.pdf>.

The passage of the 2012 Food and Drug Administration Safety and Innovation Act provided the Department with enhanced penalties under Title 18 for trafficking in counterfeit drugs. The cases below illustrate recent action taken by the Department to hold those accountable for distributing misbranded, unapproved, adulterated, or counterfeit drugs.

- On February 20, 2014, Ricky Lee Campbell, of Sacramento, California, pleaded guilty to conspiracy to traffic in counterfeit pharmaceuticals. The U.S. Attorney's Office for the Eastern District of California successfully prosecuted Campbell and his co-defendant, Susan Yvonne Eversoll. The defendants offered Viagra and Cialis for sale using CraigsList, Pennysaver, and via text message blasts. Searches of Campbell and Eversoll's residences produced more than 6,000 counterfeit tablets of Viagra and Cialis. Eversoll pleaded guilty to the conspiracy in December 2013, and was sentenced on March 6, 2014, to 18 months in prison. Campbell was sentenced on May 8, 2014 to a term of 41 months imprisonment, to be followed by 16 months of supervised release.
- The United States Attorney's Office for the Eastern District of Missouri announced on January 16, 2014, that two Turkish nationals were charged with obtaining unapproved, misbranded, adulterated and counterfeit cancer treatment prescription drugs from Turkey and other foreign countries and smuggling the drugs into the United States, including three shipments sent from Turkey to Chesterfield, Missouri. According to court filings, the defendants were employees of a Turkish prescription drug wholesaler. They used shipping labels that concealed the illegal nature of the prescription drug shipments, including customs declarations falsely describing the contents as "gifts" or "documents" or "product sample" with no or low declared monetary values.
- In January, 2014, the Southern District of Texas and the Criminal Division successfully prosecuted a defendant for conspiracy to import counterfeit and misbranded drugs. A total of 3,200 counterfeit Viagra and 4,000 counterfeit Cialis pills were sent from China to the defendant's home. Although the pills looked authentic, when tested, law enforcement determined that the counterfeit Viagra had less active pharmaceutical ingredient than was stated on the packaging, and the counterfeit Cialis did not contain any of the brand's active pharmaceutical ingredients.
- The Criminal Division successfully prosecuted defendant Grisel Azcuy in the Eastern District of New York on December 10, 2013, for conspiracy to traffic in counterfeit goods and distribute misbranded drugs in violation of 18 U.S.C. Section 371 and conspiracy to distribute and possess with intent to distribute pharmaceutical drugs that included oxycodone, hydrocodone, alprazolam and diazepam in violation of 21 U.S.C Sections 846 and 841.
- The U.S. Attorney's Office for the Southern District of California announced on September 12, 2013, that defendant Martin Paul Bean III was sentenced to

serve 24 months in custody for his role in a scheme to sell unapproved foreign oncology drugs to doctors in the United States. Bean had pleaded guilty to conspiracy to commit a number of Federal offenses, including wire fraud, mail fraud, selling unapproved drugs, selling misbranded drugs, and importing merchandise contrary to law. In pleading guilty, Bean admitted that between February 24, 2005 and October 30, 2011, he operated a business (GlobalRx Store) from his residence in Florida and unlawfully sold over \$7 million of prescription oncology drugs to doctors throughout the United States. Bean ordered unapproved drugs from foreign sources, including sources in Turkey, India, and Pakistan, and sold them to doctors within the United States at substantially discounted prices.

—The U.S. Attorney’s Office for the Eastern District of Pennsylvania announced, on September 11, 2013, that Naman Bader of Philadelphia received a 12-month prison sentence for smuggling and illegally distributing more than 2 million prescription pills, such as Xanax, Valium, phentermine, Ativan, Klonopin, Ambien, and their generic equivalents, valued at approximately \$10,310,406. Additionally, approximately 25,000 counterfeit Viagra and Cialis pills were seized in international mail parcels during the course of the investigation. Bader’s co-conspirator, Rehan Shah, was sentenced on December 5, 2012, to 15 months in prison.

—The U.S. Attorney’s Office for the Southern District of Texas and the Criminal Division announced on August 6, 2013 the arrests of two individuals, Jamal Khattab, of Katy, Texas, and Faye Al-Jabri, of Chicago, for allegedly conspiring to traffic in counterfeit and misbranded medicine, specifically Viagra. The indictment charged Khattab with one count of conspiracy, one count of smuggling goods into the United States, two counts of trafficking in counterfeit goods, two counts of trafficking in misbranded drugs and two counts of trafficking in counterfeit drugs. Al-Jabri was charged with one count of trafficking in counterfeit goods, one count of trafficking in misbranded drugs and one count of trafficking in counterfeit drugs. Jamal Khattab was sentenced on August 15, 2014 to a term of 21 months incarceration, 1 year of supervised release, and payment of \$7,000 in restitution, plus a \$300 special assessment. Faye Al-Jabri was sentenced on July 17, 2014 to a term of 41 months incarceration, 3 years of supervised release, and payment of \$15,066.92 in restitution.

—On June 27, 2013, the U.S. Attorney’s Office for the District of Colorado obtained, and the U.S. Food and Drug Administration (FDA), executed seizure warrants for 1,677 Web sites that were illegally selling counterfeit or misbranded drugs that purported to be brand name pharmaceuticals. This enforcement action was coordinated as part of as part of International Internet Week of Action, and in conjunction with Interpol’s Operation Pangea VI. Many of the sites falsely claimed to be hosted in Canada, while others falsely claimed to be affiliated with major U.S. pharmacy retailers by using the names of those retailers in the domain names. Drugs purchased from the sites provided did not have FDA approval and did not have Canadian origins. The Web sites offered medications to treat, among other things, conditions related to diabetes, schizophrenia, pain and inflammation.

—On April 18, 2013, the U.S. Attorney’s Office for the Northern District of Illinois announced the indictment of a pharmacist on 15 counts of violating the FD&C Act and FDASIA for obtaining counterfeit Viagra and Cialis from China and illegally dispensing the bogus medications at his pharmacy.

—The U.S. Attorney’s Office for the Central District of California successfully prosecuted Edward Alarcon for a plot in which he possessed, and had the intent to distribute for profit, more than 2,000 Chinese-made counterfeit and misbranded Viagra pills. After a 3-day jury trial in January 2013, Alarcon was convicted on two counts of trafficking in counterfeit OxyContin and Cialis. The evidence presented at trial showed that Alarcon had purchased the bogus OxyContin from Bo Jiang, a Chinese national and the alleged head of a counterfeit drug ring. Alarcon had offered to sell counterfeit Cialis, Viagra and Levitra on Craigslist. The district court judge sentenced the defendant to 15 months in Federal prison on April 4, 2013. In a related case, Francis Ortiz Gonzalez, who worked as a “dropshipper” for Jiang in the United States, was sentenced in January 2014 to 2 years in Federal prison and ordered to pay \$324,530 in restitution for trafficking counterfeit pharmaceuticals.

You have asked about challenges the Department faces in prosecuting these cases involving counterfeit drugs, including resource challenges.

In March 2011, the U.S. Intellectual Property Enforcement Coordinator publicly released a White Paper on Intellectual Property Enforcement Legislative Recommendations and it is accessible at, <http://www.whitehouse.gov/sites/default/files/>

ip_white_paper.pdf. In this White Paper, the administration recommended six legislative changes to improve U.S. enforcement efforts involving pharmaceuticals, including counterfeit drugs:

1. Require importers and manufacturers to notify the FDA and other relevant agencies when they discover counterfeit drugs or medical devices, including the known potential health risks associated with those products;
2. Extend the Ryan Haight Act's definition of "valid prescription" (and its telemedicine exemption) under the Federal Food, Drug, and Cosmetic Act (FFDCA) to drugs that do not contain controlled substances;
3. Adopt a track-and-trace system for pharmaceuticals and related products;
4. Provide for civil and criminal forfeiture under the FFDCA, particularly for counterfeit drug offenses;
5. Increase the statutory maximums for drug offenses under the FFDCA, particularly for counterfeit drug offenses; and
6. Recommend that the U.S. Sentencing Commission increase the U.S. Sentencing Guideline range for intellectual property offenses that risk death and serious bodily injury, and for those offenses involving counterfeit drugs (even when those offenses do not present that risk).

The Department recognizes recent congressional action, but also reiterates the need for implementation of the other recommendations noted in this White Paper. For example, many online pharmacies sell prescription drugs that are not controlled substances under Federal law. Non-controlled prescription drugs are regulated under the FFDCA and require a valid prescription, but the FFDCA does not define what constitutes a valid prescription. Currently, States have different definitions of what constitutes a valid prescription. Internet pharmacies typically operate across State lines. The pharmacy may be in one State (or overseas), the doctor who issues the prescription may be in another State, and the customer may be located in a third State. In such cases, it is not clear which State law applies. Extending the Ryan Haight Act's definition of "valid prescription" to non-controlled prescription drugs would help standardize what constitutes a valid prescription. A Federal definition of what constitutes a "valid prescription" for non-controlled prescription drugs would also provide clarity in Internet pharmacy investigations where there is a question as to whether the drugs are being dispensed pursuant to a valid prescription.

Prosecuting foreign Internet pharmacies for dispensing controlled and non-controlled prescription drugs under FFDCA presents some unique challenges for the Department of Justice. The Government Accountability Office (GAO) noted in a report released in July 2013 the substantial challenges in the criminal investigation of rogue Internet pharmacy operators, include the increasingly complex nature of the criminal organizations and the difficulties in pursuing investigations and prosecutions of conduct that occur mainly overseas and often span several foreign countries. For example, the Department may have difficulties prosecuting an offender because of the lack of an extradition treaty between the foreign country and the United States. The report is available at <http://www.gao.gov/assets/660/655751.pdf> and further details these challenges.

Question. What has the Department and its current intellectual property law enforcement coordinators done to help stop the tide of counterfeit and unsafe pharmaceuticals from hitting our shores? Are there any recent joint operations with our partners in Asia that have been successful? What are the greatest challenges that you see in countries like China and India?

Lead-in information from original document.—

The Department of Justice currently funds 22 positions focusing on intellectual property crime and has requested funding for an additional 11 positions, including two International Computer Hacking and Intellectual Property Coordinators (ICHIPs).

Answer. As detailed in the Department's Prioritizing Resources and Organization for Intellectual Property (PRO IP) Act Annual Report for fiscal year 2013, the Department has prioritized cases involving public health and safety, including prosecuting the importers and distributors of counterfeit and sub-standard medicines. These cases may fall under the prohibition against trafficking in counterfeit goods (18 U.S.C. § 2320) or the Federal Food, Drug and Cosmetic Act (21 U.S.C. §§ 351, 352).

By working closely with investigative agencies and the National IPR Coordination Center, the Department has successfully prosecuted numerous cases involving counterfeit pharmaceuticals imported from overseas. Some recent examples include:

—In January 2014, two Turkish nationals were charged in the Eastern District of Missouri with obtaining unapproved, misbranded, adulterated, and counter-

- feit cancer treatment and prescription drugs from Turkey and other foreign countries and smuggling the drugs into the United States.
- In January 2014, a Texas resident pleaded guilty to conspiring to import and attempting to traffic counterfeit drugs. The counterfeit pharmaceuticals, which either did not contain any active ingredient or contained an insufficient amount of the active ingredient, were sent to the defendant's home in Texas from China in open foil blister packs without packaging or labels.
 - In December 2013, a Chicago resident pleaded guilty to conspiring to traffic and trafficking in counterfeit and misbranded pharmaceuticals. The defendant smuggled the counterfeit drugs from China into the United States in bulk for later distribution in smaller quantities. As part of the investigation, an undercover agent successfully infiltrated the counterfeit pharmaceutical trafficking organization and received approximately 17,000 counterfeit and misbranded Viagra tablets over a two-and-a-half year period.
 - In April 2013, an Illinois resident was charged with trafficking in counterfeit drugs, violating the Federal Food, Drug, and Cosmetic Act in connection with illegally obtaining drugs from China and dispensing them at his pharmacy.
 - In January 2013, a Puerto Rican man was sentenced to 2 years in prison for being a key member of an organization that distributed large quantities of Chinese-made, counterfeit pharmaceuticals across the United States. The defendant worked as a "dropshipper" for the counterfeit drug ring allegedly headed by a Chinese national whose last known residence was in New Zealand. The purported head of the drug ring was arrested by New Zealand law enforcement pursuant to a provisional arrest warrant, but he fled shortly after being released on bond and remains a fugitive. In a related case, in April 2013, a California resident was sentenced to 15 months in prison for his role in a scheme to distribute the Chinese-made counterfeit pharmaceuticals. He purchased the drugs from the alleged head of the counterfeit drug ring and offered to sell them on craigslist.
 - In October 2012, a New Zealand physician was sentenced to 18 months in prison after pleading guilty to three counts of trafficking in counterfeit pharmaceuticals. The investigation into the defendant's illicit activities began in 2006 after Customs and Border Protection intercepted a parcel shipped from China containing counterfeit drugs, and the defendant was identified as the sender. The defendant was originally indicted in December 2007, but remained at large until March 2012 when he was arrested at San Francisco International Airport flying into the United States from Hong Kong.
 - In September 2012, a Puerto Rican distributor of counterfeit pharmaceuticals was sentenced to 21 months in prison. The pharmaceuticals were exported from China into Puerto Rico, where the defendant re-shipped the drugs into other U.S. locations, including to undercover agents in Houston.
 - In July 2012, a California man was sentenced to 1 year and a day in prison after pleading guilty to trafficking in counterfeit pharmaceuticals. The defendant admitted that he imported these products into the United States from China and India and then sold the pills on craigslist.
- In addition to seizing counterfeit and misbranded drugs and prosecuting the distributors, the Department has seized websites used to facilitate distribution of illegal sales of pharmaceuticals:
- In June 2013, the U.S. Attorney's Office for the District of Colorado and the Food and Drug Administration seized 1,600 domain names associated with Web sites selling counterfeit or misbranded drugs as a part of INTERPOL's Operation Pangea VI, an international week of action targeting the online sale of counterfeit and illicit medicines.
 - In October 2012, in Operation Bitter Pill, Homeland Security Investigations in coordination with the Department of Justice seized 686 Web sites illegally selling counterfeit pharmaceuticals. The operation was part of INTERPOL's Operation Pangea V.

The Department also works closely with the State Department to provide training in effective law enforcement techniques to reduce the trade in illicit pharmaceuticals into developing countries. The sale of counterfeit medicines in developing countries can simultaneously destroy the market for legitimate products and have devastating health consequences on the local population. As part of a multi-year series of programs to build IP enforcement capacity, the Department, working with the World Customs Organization, was able to support a 23-nation effort to seize counterfeit medicines across the African continent which resulted in the seizure of more than 550 million doses of counterfeit medicine during a 10-day period in April 2013.

In addition to our efforts to increase awareness and enforcement in consumer countries, we continue to develop cooperative law enforcement mechanisms to pur-

sue a range of IP offenses in source countries, including the ongoing effort to reach the producers of counterfeit and substandard pharmaceuticals.

—The U.S.-China Joint Liaison Group's Intellectual Property Criminal Enforcement (JLG IP) working group provides a forum to discuss ways to improve law enforcement cooperation and coordination on intellectual property matters, including counterfeit pharmaceuticals, and to exchange information and coordinate enforcement activities. The JLG IP working group is co-chaired by China's Ministry of Public Security and DOJ's Criminal Division. The JLG IP working group coordinates with U.S. law enforcement officials in China to facilitate the exchange of evidence.

—In May 2013, the Department of Justice hosted the third Intellectual Property Crime Enforcement Network (IPCEN) conference in Bangkok, Thailand. Sixty intellectual property crime investigators and prosecutors from the 10 members of the Association of South East Asian Nations (ASEAN), as well as South Korea and China, attended. The IPCEN conference is designed to help prosecutors and investigators in the region develop a network of IP enforcement authorities and foster bilateral and regional cooperation in IP cases, including counterfeit pharmaceutical cases.

There are no recent examples of joint operations with our partners in Asia that are public at this time. However, we have seen a substantial increase in the willingness of law enforcement officials in some producer nations to cooperate in the disruption of counterfeit pharmaceutical manufacturing facilities, and we are looking for opportunities to develop joint operations through the IPCEN and JLG.

In India we have been challenged by the lack of a central law enforcement authority with jurisdiction over counterfeit and substandard pharmaceutical investigations, making a coordinated approach to enforcement difficult. Additionally, larger issues relating to patent enforcement and access to medicines in India often limit political will and overshadow efforts at cooperative action against counterfeit pharmaceuticals.

In China, law enforcement officials recognize the growing threat of counterfeit pharmaceuticals to the Chinese population and take well-publicized actions to cut down on domestic IP crime. Chinese officials have shown an increasing willingness to work with U.S. law enforcement and rights holders to ensure the legitimacy of pharmaceuticals in the supply chain, using the Joint Liaison Group as a coordination mechanism. However, the sheer volume of production in China of counterfeit pharmaceuticals and other IP-infringing goods continues to make enforcement a challenge.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

FAIRNESS IN DISCLOSURE OF EVIDENCE ACT

Question. Suppose I were to ask the Department to provide a drafting service, get a bit introspective about what might be acceptable bearing in mind the comments in the Judiciary hearing last year and send me a bill that is worth moving forward on. Would you do this for me?

Lead-in information from original document.—

Last year I introduced the Fairness in Disclosure of Evidence Act with the intention of ensuring that the obligation to disclose exculpatory evidence to Federal defendants in accordance with the Brady ruling was uniformly applied across the districts. The bill was endorsed by a wide variety of organizations across the ideological spectrum from the American Civil Liberties Union to the American Bar Association to the U.S. Chamber of Commerce. Suffice it to say, prosecution interests were not as enamored with the bill. When the bill went to hearing in the Judiciary Committee last year there was widespread support within the Department for taking Brady obligations seriously and there was a promising colloquy with Senator Leahy and others about open file discovery. At the end of the day my bill was unacceptable to the department but the department failed to express the parameters of a bill that would be acceptable. This issue is very very important to me and I intend to pursue it. I would like to find common ground with the Justice Department. So rather than me continuing to draft bills that are unacceptable—[continued above as the start of the question]

Answer. The Department of Justice firmly believes that rather than seeking legislative solutions, the American people are better served by the steps the Department already has taken—and will continue to take—since the time of the Stevens pros-

ecution. Through improved policies, increased training, and the appointment of new Department experts on the topic of discovery obligations, the Department's prosecutors have at their disposal an array of resources to assist them in meeting their discovery obligations. In addition to supervisory attorneys, this includes: discovery coordinators in each U.S. Attorney's Office or Department component; the Professional Responsibility Advisory Office; online resources; a full-time National Criminal Discovery Coordinator in the Office of the Deputy Attorney General; and experienced attorneys throughout the Department.

ATTORNEY MISCONDUCT

Question. In advance of the next round of reporting from the GAO, let me ask are you satisfied with the attorney misconduct program within the department? Are there any changes you would like to see implemented? I understand that the Department has long resisted permitting the Inspector General to inquire into issues of attorney misconduct. Senator Lee, I and others think this is shortsighted. The Inspector General is intended to be an independent figure with the power to inquire into all goings on within the Department furthering the public interest of integrity and efficiency. Is there any good reason that the Department should oppose S. 2127 which would remove Inspector General Act impediments pertaining to attorney misconduct?

Lead-in information from original document.—

I would like to speak with you about the issue of attorney misconduct within the department. USA Today did a series on attorney misconduct, the Project on Government Oversight recently issued a report attorney misconduct and I have the GAO working on a study mandated by this subcommittee on the same subject that will be available later this year. We hear that attorney misconduct is seriously addressed but looking back at the discipline meted out on the Stevens prosecutors one might question whether the discipline is severe at all. And the POGO report indicates that rarely if ever are disciplined prosecutors referred to their State bars.

Answer. The Department takes all misconduct allegations with the utmost seriousness. The Department's Office of Professional Responsibility ("OPR") has been recognized consistently as a strong, independent entity within the Department that has a long, distinguished, and strong history of investigating allegations of attorney misconduct and recommending appropriate punishment. OPR has a unique expertise and has well-developed policies, procedures, and an analytical framework to guide its work. Importantly, OPR, unlike the Office of the Inspector General (OIG), has a singular focus on investigating attorney misconduct.

While the Administration does not yet have an official position on S. 2127, similar bills have been introduced a number of times in the past; none have proceeded, and for good reasons. Previous efforts to unnecessarily expand the jurisdiction of the OIG have failed, in part, because expanding their jurisdiction would not create a better attorney discipline system, but instead would create an inconsistent and inefficient system while eroding accountability.

As with S. 2127, previous efforts at expanding the OIG's jurisdiction have sought to effectively cede OPR's current jurisdiction to the OIG on all matters, allowing the OIG to handle certain attorney misconduct investigations of its choosing, while OPR handles the remainder. This concurrent jurisdiction undoubtedly would lead to inconsistent results without addressing any of your concerns.

When Congress created an Inspector General (IG) for the Department of Justice in 1988, the Department strongly insisted upon recognition of the special character of Department attorneys' exercise of authority to investigate, litigate and give legal advice. Since its creation in 1975, OPR has developed unique expertise in applying the complex legal and ethical standards applicable to Department attorneys conducting investigations, litigating cases, and providing legal advice. OPR has developed unique investigative policies and procedures, as well as an analytical framework that together ensure the application of fair and consistent findings with regard to matters of professional misconduct. OPR is staffed with experienced attorneys, including former attorneys from the OIG, as well as attorneys who worked in private practice, have experience with the national Innocence Project, and have experience with attorney ethics investigations.

For these reasons, Congress specifically carved out of the IG's jurisdiction the authority to investigate allegations relating to an attorney's authority to investigate, litigate, and provide legal advice; and required that such allegations continue to be referred to OPR. Since 1988, the OIG has raised periodically its claim that it should be empowered to investigate matters falling within OPR's jurisdiction. Each time

the issue has been raised, Congress has wisely refrained from altering the carefully considered limitation on the IG's authority.

In its nearly 40 years' existence, OPR has been called upon to investigate allegations of misconduct against high-ranking DOJ officials, including the Attorney General and the Deputy Attorney General. OPR in fact acts independently and without interference from senior Department leadership. Since its inception, OPR has been led by a Counsel who is a career Senior Executive Service Department employee, who remains unchanged with successive Attorneys General and presidential administrations. No serious allegation has ever been raised that any Attorney General or Deputy Attorney General has interfered with any OPR investigation.

Although the OIG for many years has claimed a need to increase its own jurisdiction, the OIG points to no instance in which Department senior leadership interfered with an OPR investigation; nor does the OIG point to a single OPR investigation that failed to appropriately hold accountable Department leaders or other Department attorneys. OPR has not hesitated to investigate senior Department leadership at the highest levels in the past where appropriate, and to find misconduct by Department attorneys when the evidence supported such findings. In any event, if the OIG wishes to take over an investigation that falls within the jurisdiction of OPR, the OIG may make such a request to the Deputy Attorney General.

Moreover, your concerns about the Stevens case would not have been addressed had the attorney misconduct investigation been handled by the OIG. As I understand it, your principal objection to the Department's handling of the Stevens attorney misconduct investigation is your belief that the punishment was insufficient. Had the OIG handled the investigation, the perceived problem of insufficient punishment would not have been rectified. OPR conducted a full and thorough investigation and determined in a detailed, 672-page report that two attorneys engaged in professional misconduct and that a third exercised poor judgment. OPR's findings were shared with Judge Sullivan, who presided over the Stevens matter and with Congress.

As a result of OPR's findings, the Department imposed significant periods of suspensions without pay to the attorneys who were found to have engaged in professional misconduct. As is the right of any civil servant under similar circumstances, the attorneys appealed the imposed discipline to the Merit Systems Protection Board (MSPB); an administrative judge for the MSPB vacated the suspensions based on a finding of harmful procedural error when the original disciplinary proposing official was replaced. The Department appealed that decision to the full Board, believing that the replacement of the proposing official was proper. The full board affirmed the initial decision, finding similar harmful procedural error. Regardless of whether OPR or the OIG investigated this incident of attorney misconduct, there is no reason to believe the MSPB outcome would have been any different. OPR has the authority to investigate allegations of misconduct, but does not have the authority to impose discipline. Likewise, the OIG would have had no such authority. Rather, the OIG would only have authority to report its findings and conclusions to the Attorney General and the Deputy Attorney General; the Department, under longstanding civil service rules, would retain authority to impose discipline. But just as is the case under the present system, any attorney—like all Federal Government workers—would retain the right to appeal a suspension of more than 14 days to the MSPB.

With respect to concerns about referrals of attorney misconduct to State bars, OPR's long-standing policy and practice in all investigations is also to review the State bar rules that govern each individual attorney who is under investigation, and to assess whether there has been a violation of those specific State bar rules. If the Department determines that the conduct violates an applicable State bar rule, OPR refers the matter to the relevant State bar and provides information about its finding. OPR routinely makes such referrals.

Another reason OIG's jurisdiction to include attorney misconduct is neither warranted or appropriate is that having two entities responsible for attorney misconduct investigations would necessarily lead to inconsistent application of the often complex rules and standards governing attorney conduct and would leave Department attorneys uncertain as to the extent of their obligations. This uncertainty, in turn, would reduce accountability because of the lack of clear direction and opaque expectations regarding attorney conduct. This will inevitably create a dysfunctional system in which similarly-situated Department attorneys will be treated differently for essentially similar conduct. It would be grossly unfair to subject attorneys to disparate treatment based on which investigative entity takes jurisdiction; decreased accountability would be the predictable result.

With respect to transparency, the Privacy Act prevents OPR from releasing personal information about Department employees, except in limited circumstances,

and those same limitations would apply to the OIG. Accordingly, whether OPR or some other entity undertakes disciplinary investigations, the same Privacy Act limitations are applicable. Although the Privacy Act prohibits the release of protected information, OPR annually discloses a substantial amount of information about its work and findings. OPR's annual report contains substantive and statistical information setting forth the complaints it receives and the numbers of inquiries and investigations it accepts and resolves. The fiscal year 2012 Annual Report, for example, not only included summaries of representative inquiries handled by OPR during the year but also included summaries of nearly every investigation OPR closed during fiscal year 2012. Future annual reports will do the same. Beyond that, OPR regularly provides complainants, including defense attorneys or judges who complain about the conduct of Department attorneys, information concerning the resolution of their complaint. Contrary to the suggestion in the POGO report otherwise, where bar rules are implicated, OPR also shares its misconduct findings and reports with bar disciplinary authorities.

TED STEVENS INVESTIGATION

Question. During last week's hearing with the FBI Director, Mr. Comey indicated that an FBI Agent whose conduct in the Ted Stevens investigation came under scrutiny was severely disciplined. But he didn't explain what severely disciplined meant. One person's severe discipline might be another's slap on the wrist. Can you shed any light on whether the individual is still working for the FBI, in what capacity, and what the discipline was. [If not, insist once again that the report be filed with the subcommittee so we can determine what went on].

Answer. In light of the privacy interests implicated here, FBI would be prepared to brief the Committee on this matter.

QUESTIONS SUBMITTED BY SENATOR MARK KIRK

GANGS

Question. Would a tool like this be useful on a national scale in a classified or unclassified manner? Do any of our Federal law enforcement agencies gather this type of information on gangs of national significance (gang profiles, membership, signs or symbols, signature crimes, etc.) and share it with their State and local partners? If this is already being done, what is the manner that the information is shared?

Lead-in information from original document.—

The Chicago Crime Commission, a non-partisan, not-for-profit organization, printed *The Gang Book* in 2012 that details the leadership, membership, locations and other unique identifying factors of gangs and their factions in both the city of Chicago and the suburbs. *The Gang Book* also published the number and type of crimes reported as "gang related." This information is useful for suburban police departments that are experiencing gang crime for the first time.

Answer. This type of tool is already being used on a national scale and is very helpful. The National Gang Intelligence Center (NGIC) operates NGIC Online, which is an information system composed of Web based tools for researching gang related intelligence and sharing this information with the largest possible segment of the law enforcement community. NGIC Online can be accessed by all Law Enforcement Online (LEO) users, which are comprised of local, State, Federal, tribal, and correctional law enforcement. NGIC Online has several resources, including the following: Gang Encyclopedia, Gang Dictionary, General Intelligence Library, and Officer Safety Alerts. There is also a mechanism within NGIC Online wherein law enforcement can submit a request for information to NGIC subject matter experts for support on gang investigations. NGIC also produces the bi-annual gang report, which is available to all law enforcement through the NGIC Online database.

In addition, the Department's Office of Justice Programs' (OJP), Bureau of Justice Assistance (BJA), administers the Regional Information Sharing Systems (RISS) Program, which is a federally funded, locally operated program that provides secure intelligence and information sharing to law enforcement, prosecutors, corrections, and probation/parole officers at all levels of government. Although Federal agencies participate, the focus is information sharing between law enforcement no matter the size of the agency. In addition to information sharing services, RISS provides assistance to these agencies in the areas of investigative support, equipment loans for investigation and surveillance, court preparation, training, and field support.

All RISS resources are used by State, local, and tribal agencies on a daily basis to investigate many types of crimes, especially narcotics and gangs (which are connected on many occasions). One specific resource of interest to gang investigators in the RISS program is the RISSGang system. RISSGang provides a place for officers to share and provide gang information on a national level to include gang profiles, tattoos, gang signs and symbols, and types of specific crimes affiliated with each gang. The gang information is made available through the RISSGang Web site, which is available to all law enforcement, and has a bulletin board feature, a searchable database, secure e-mail, and a method for officers to securely view gang Web sites without revealing the officers' IP address or identity as a government official.

Question. Gang activity is increasingly expanding to new forms of illegal activity including sex trafficking. How is DOJ communicating and working with State and local law enforcement to combat sex-trafficking? How is DOJ working with other Federal agencies and our allies to combatting international sex tourism? What are the biggest trends in sex trafficking? What areas are seeing increased activity? Please outline the biggest loopholes within current law that enable sex traffickers to evade the law enforcement and criminal prosecution.

Answer. Through the FBI's Violent Crimes Against Children Section, the FBI has established 69 Child Exploitation Task Forces (CETFs) throughout the country. The FBI partners with nearly 400 local, State, and Federal law enforcement agencies, with approximately 760 law enforcement officers to combat the commercial sexual exploitation of children. This robust effort allows for multi-dimensional investigative strategies to be employed. The national level intelligence and investigative resources are layered with the local level intelligence to develop large enterprise level investigations. In addition to fostering the sharing of information across law enforcement, the CETFs facilitate prosecutions within both State and Federal courts of those who facilitate the commercial sexual exploitation of children. Without question, because of the partnerships through the FBI CETFs, law enforcement is able to more fully impact this crime problem without the limitations of any jurisdictional boundary.

The FBI also operates its Child Sex Tourism Initiative in which FBI agents assigned to our Legal Attaché offices around the globe investigate U.S. citizens who travel overseas and engage in illicit sexual acts with children. These agents work with foreign law enforcement, non-governmental organizations (NGOs), and various victim services organizations in order to investigate and prosecute those engaged in child sex tourism. The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE) also have agents stationed overseas that investigate child sex tourism and other crimes. The FBI has regular contact with ICE in order to collaborate on these cases.

Trends related to the domestic child sex trafficking threat are typically reflected in the methodologies used by pimps to run their operations. This is reflected in the trend of using non-escort focused Web sites to post prostitution advertisements. Additionally, pimps are distancing themselves from their operations by assigning greater responsibility to associates and "bottom girls" (frequently the most trusted girl under the direction of a pimp). Some special events, such as the Super Bowl, continue to spur a surge of sex trafficking operations leading up to and during the event. Training and outreach efforts have resulted in an increased awareness of domestic child prostitution. As a result, law enforcement and the public are more conscious of indicators specific to domestic child sex trafficking, leading to an increase in reports of suspected trafficking. Domestic child sex trafficking continues to impact communities across the Nation.

The Office of Justice Program's (OJP's) National Institute of Justice (NIJ) regularly consults with a range of State and local practitioners, including law enforcement, prosecutors, community organizations and victim service providers, to identify the prominent trends in human trafficking. These consultations revealed that the nature of trafficking cases calls into question the assumptions about who traffickers are, how they become traffickers and what might serve as the greatest deterrent to their entry into trafficking. In response, NIJ commissioned a study focused on answering these questions for all those convicted of trafficking at the Federal level, another examining the role of gangs in sex trafficking in San Diego, and a third exploring the role of organized crime in sex trafficking in the United States (all due to be completed in 2015). Combined with our recently completed studies of labor trafficking (published in 2013) and the unlawful commercial sex economy (published in 2014), these studies will provide a more clear picture of trends in sex trafficking in the United States.

The Office for Victims of Crime (OVC) and the Bureau of Justice Assistance (BJA) jointly administer the Enhanced Collaborative Model to Combat Human Trafficking grant funding program to support anti-trafficking law enforcement task forces that

take a comprehensive approach to combating all forms of human trafficking—sex trafficking and labor trafficking of foreign nationals and U.S. citizens (male/female, adults/minors). The task force model supports partnerships between local, tribal, State, and Federal law enforcement and victim service providers to build community capacity to rescue and serve trafficking victims. In addition to funding these task forces, OVC and BJA support practitioner-driven, evidence-based training and technical assistance (TTA) that is responsive to the needs of victim service organizations, law enforcement, allied professionals, and the communities they serve.

Over the past several years, BJA and its partner, the Upper Midwest Community Policing Institute, have developed and delivered nationwide training for law enforcement, State prosecutors, State judges, and tribal law enforcement to promote awareness of human trafficking as well as advanced skills on how to investigate cases of human trafficking. In fiscal year 2014, BJA posted a solicitation seeking to continue the delivery of: (1) human trafficking training for prosecutors—to increase the capacity of State prosecutors to successfully prosecute perpetrators of trafficking; and (2) advanced human trafficking training for law enforcement—to increase the capacity of law enforcement to investigate, identify, and rescue victims of all forms of human trafficking.

CYBER SECURITY

Question. I am greatly concerned about the data breach incident at the end of 2013 that resulted in up to 110 million credit cards numbers stolen from Target. This is just one of many incident that happened last year. How does DOJ coordinate with the Secret Service, which has the lead agency on counterfeit activity, regarding data breaches? Do you have all of the legal authorities you need to effectively coordinate with other agencies? If not, is there further congressional action that will help you better protect the American people?

Answer. Consistent with law, the FBI has a very forward-leaning approach to sharing information and intelligence with our partners, specifically the U.S. Secret Service (USSS). While the USSS is the lead agency for traditional counterfeit activity, an intrusion into computer networks is an altogether separate Federal violation, the investigation of which is a responsibility shared by both the FBI and USSS, and the FBI is the lead agency on national security intrusions. As such, the FBI and the Secret Service have a long history of jointly investigating computer intrusions, including large-scale data breaches, whether committed by financially-motivated criminals or other criminal actors. Over the past 2 years, the FBI has shared national security case details with the USSS, and both agencies are leading members of the National Cyber Investigative Joint Task Force, the founding mandate of which is to serve as the focal point for all government agencies to coordinate, integrate, and share information related to all domestic cyber threat investigations. In addition, both agencies engage in robust, bilateral collaboration at both the headquarters and field levels to ensure maximum resources are brought to bear against these criminal cyber threats in the most effective manner possible. Lastly, both agencies also participate in the International Organized Crime Intelligence and Operations Center (IOC-2), a forum for member agencies to meet and more effectively coordinate international criminal prosecutions—prosecutions which include cyber activities.

The FBI has a variety of means to coordinate with its partner agencies in the U.S. law enforcement and intelligence communities. To successfully identify, pursue, and defeat our cyber adversaries, data collection and sharing among U.S. agencies must continue to evolve. That evolution requires a constant evaluation of the authorities governing such coordination including ensuring agency-specific data sharing restrictions, while often necessary, do not unduly burden that sharing. Another aspect of that evolution is increasing the speed at which intelligence is shared. In that vein, the FBI, working with partners in government and the private sector, will likely turn to machine-to-machine data sharing, but such enhanced coordination may require authorities not currently in place. This is an issue actively being reviewed at the present and will continue to be examined for the foreseeable future.

Finally, cybersecurity legislation that requires companies to report intrusion activity to the Government and provides liability protections for those companies that share with and assist Government would have a positive impact on the FBI's cyber investigations.

QUESTION SUBMITTED BY SENATOR JOHN BOOZMAN

VICTIMS OF CHILD ABUSE ACT

Question. I certainly hope that you will follow up on that commitment given that while this year funds weren't cut, they were significantly reduced from the levels that this subcommittee provided the past 2 years and I would appreciate you reaffirming your support for CAC's.

Lead-in information from original document.—

For the first time in several years, I am happy that the administration's budget request did not zero out funds for the Victims of Child Abuse Act, yet it reduced the funding by \$8 million from the fiscal year 2014 enacted level. As you know, VOCA funds vital programs that ensure that children who have been victims of abuse receive adequate assistance and care.

Specifically VOCA provides funding to the National Children's Alliance, local Children's Advocacy Centers, and Regional Children's Advocacy Centers, among other programs. These centers are an essential part of communities and are deeply supported by community leaders, local law enforcement, health officials and members of the legal establishment.

In a hearing in January of this year, you stated, "I will be advocating on behalf of these Children's Advocacy Centers. I think they are proven to work, and given who they assist, I think that as we're trying to decide what our priorities are, the protection of our most vulnerable citizens, our children, has to be a place where we put our money."

Answer. The Children's Advocacy Center (CAC) Program, funded under the Victims of Child Abuse Act (VOCA), is considered to be an effective multidisciplinary model. The CACs represent vital public-private partnerships. In 2012, more than 286,000 children were served at such centers, with over 197,000 cases of reported sexual abuse. One of the primary goals of the CAC Program is to ensure that child abuse victims are not further traumatized by the systems designed to protect them. CACs bring together multidisciplinary teams of child abuse professionals from law enforcement, prosecution, medical, mental health, child protective services, and victim advocacy agencies to coordinate the investigation and prosecution of child abuse. This model has been implemented in more than 850 communities throughout the United States and in numerous foreign countries.

Research on the effectiveness of CACs indicates positive results from faster criminal charging decisions, increased prosecution rates, improved access to medical care, child and caregiver satisfaction and lower average per-case costs. Research has demonstrated that the coordinated response efforts also cost \$1,000 less per case based on elimination of duplication of efforts.

QUESTIONS SUBMITTED TO HON. MICHAEL E. HOROWITZ

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

Question. Public trust and confidence are essential to successful Federal law enforcement efforts. However, the Department has faced significant issues in recent years that jeopardize that very trust and confidence. In fact, restoring public confidence, trust and integrity in the Department has been a top management challenge since 2007.

—Seven years is a long time for any department to struggle with such a serious management challenge. Has the Department made any progress and if so, could you share some examples?

—What changes, in your view, would help to restore public trust and confidence? In other words, what does the Department need to do to resolve this management challenge?

Answer. We agree that the public's trust and confidence are essential to successful Federal law enforcement efforts, and that the Department of Justice (Department) has faced numerous significant issues in recent years that have jeopardized that support. For example, our 2007 and 2008 Top Management Challenges report noted the politicized personnel decisions of Department components had identified in three of our reviews. In 2010, the Office of Inspector General (OIG) issued a report concerning allegations that the Federal Bureau of Investigation (FBI) had targeted certain domestic advocacy groups for scrutiny based upon their exercise of rights guaranteed under the First Amendment to the United States Constitution. More recently, our 2012 report on improper hiring practices in the Justice Management Division (JMD) found problems with nepotism in multiple offices in JMD, marking the

third OIG investigation in the last 8 years involving improper hiring practices within JMD. Also in 2012, we described significant issues involving the conduct of both the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the U.S. Attorney's Office for the District of Arizona in connection with their handling of Operation Fast and Furious and Related Matters. And in a 2013 report assessing the enforcement priorities of the Voting Section of the Civil Rights Division, we identified issues in the handling of a small number of cases that the OIG believed risked undermining public confidence in the non-ideological enforcement of the voting rights laws. The review also revealed several incidents in which ideological polarization fueled disputes and mistrust that harmed the functioning of the Voting Section, including numerous examples of harassment and marginalization of employees and managers due, at least in part, to their perceived ideological or political beliefs.

Despite the problems we have identified over the past several years, we also have noted the Department's significant efforts to restore its reputation for impartiality and excellence since we first included this issue in our Top Management Challenges report. For example, following our 2006 report on the FBI's handling of the Brandon Mayfield case, the FBI Laboratory implemented major reforms that have strengthened the objectivity and reliability of its latent fingerprint identifications and have helped restore the FBI Laboratory's reputation as a leader in this discipline; in response to our 2013 review of its purchase of promotional items, the U.S. Marshals Service instituted a new promotional items policy and other internal controls that we believe will help restore the public's confidence that appropriated funds will be used in the manner intended by Congress; and following our 2008 report on politicized hiring, the Civil Rights Division has taken major steps to improve public confidence that its hiring practices are fair, transparent, and merit-based.

Nevertheless, significant challenges remain. One especially important concern that continues to be raised by, among others, Members of Congress, Federal judges, and public interest groups is the Department's ability to discipline its attorneys for misconduct. In December 2013, Chief Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit issued a dissenting opinion stating that there was an "epidemic of Brady violations" by Federal and State prosecutors, and that "[o]nly judges can put a stop to it." In reaching this conclusion, Chief Judge Kozinski cited a plethora of Federal and State court decisions finding Brady violations by prosecutors, and he noted that professional discipline is "rare." In March 2013, the Project on Government Oversight (POGO) raised similar concerns about prosecutorial misconduct and the transparency of the Department's disciplinary decisions, and recommended that the OIG should be authorized to investigate allegations of misconduct by Department attorneys rather than the Department's Office of Professional Responsibility (OPR), which currently has responsibility for these investigations. As we have repeatedly noted in the past, and as POGO stated in its recent report, providing the OIG with this jurisdiction would result in independent oversight of alleged prosecutorial misconduct, greater transparency over the process, and an increase in accountability, with the inevitable result being that the public's trust and confidence in the disciplinary process would improve. This is particularly true in matters where the lack of independence and transparency of an OPR review might reasonably call its conclusions into doubt. For these reasons and others, the OIG supports the bipartisan Inspector General Empowerment Act of 2014 (S. 2127), introduced by Senator Lee and co-sponsored by Senators Tester, Grassley, Murkowski, and Coburn, which would amend the Inspector General Act to allow the OIG to investigate allegations of misconduct involving Department attorneys.

Question. It is my understanding that the Attorney General has granted all of your requests to access documents. If that is true, why are you concerned about the current process for accessing certain documents and records?

Answer. For any OIG to conduct effective oversight, it must have complete and timely access to all records in the agency's possession that the OIG deems relevant to its review. This principle is codified in Section 6(a) of the Inspector General Act, which authorizes Inspectors General "to have access to all records, reports, audits, reviews, documents, papers, recommendations or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act." Refusing, restricting, or delaying an OIG's access to documents may lead to incomplete, inaccurate, or significantly delayed findings or recommendations, which in turn may prevent the agency from correcting serious problems in a timely manner.

We have had multiple instances recently where one or more Department components have declined to provide the OIG with materials that were relevant to an ongoing OIG review because of a claim that the Inspector General Act did not authorize our access to those materials in light of limitations in other Federal laws. Ultimately, in each instance, the Attorney General or the Deputy Attorney General

issued an order granting the OIG permission to receive the materials because they concluded that our ongoing reviews were of assistance to them in managing the Department. However, there are significant issues with this process. First, requiring an OIG to receive permission from Department leadership in order to obtain documents that the OIG has determined are necessary for its review is inconsistent with an OIG's independence. Second, authorizing access to relevant records only after the Attorney General or Deputy Attorney General concludes that the review would assist them in managing the Department is wholly inconsistent with the Inspector General Act, which expressly authorizes an independent Inspector General to determine what reviews are necessary and should be undertaken. Third, a process that requires the OIG to elevate certain document requests to the highest levels of the Department, including in routine audits, results in significant delays in the timeliness of our work. Indeed, one of our reviews was delayed for almost a full year because of these issues. And just this year, another review was delayed approximately 3 months when a component initially objected to producing certain materials that were highly relevant to an OIG audit; the OIG obtained access only after discussions between the Inspector General and the component head resolved the matter. Moreover, the FBI, which was the component that objected in 2010 and 2011 to producing certain documents to the OIG, thereby triggering the involvement of the Attorney General and Deputy Attorney General, has since put in place a process that requires its Office of General Counsel to review and produce documents to the OIG in connection with an audit or review. We did note the FBI Director's testimony before the Senate Judiciary Committee earlier this week in which he stated that he has directed his General Counsel to approve the production of documents to the OIG much faster than in recent years. This process, which has resulted in delays of our audits and reviews, is in our view a significant waste of the FBI's limited legal resources, not to mention of the OIG's, particularly since the Attorney General has stated that he is going to ensure that we receive all of the materials that we need for our reviews and audits.

Question. Do you agree that certain laws include a specific process whereby the Attorney General is responsible for granting or denying access to specific documents and records? If not, could you detail the differences in your opinion from that of the Attorney General?

Question. We are not aware of any laws that include a specific process whereby the Attorney General is responsible for granting or denying access to specific documents and records. On the contrary, Section 6 of the Inspector General Act provides OIGs with authorization to access relevant documents and materials that are already in the possession of the establishment each oversees. The only exception to that authorization relevant to the Department of Justice OIG is found in Section 8E of the Inspector General Act, which authorizes the Attorney General to prevent the Inspector General from obtaining certain information in certain circumstances, but only after the Attorney General has made the necessary determination under Section 8E. Further, the Attorney General is required to issue a written explanation of the reasons for his decision to the Inspector General, which is then provided to Congress within 30 days. These statutory safeguards serve to underscore the fact that the Inspector General Act is intended to allow the OIG complete and timely access to the Department's documents and materials, while providing the Attorney General carefully circumscribed avenues for withholding information in exceptional circumstances—and only with prompt and specific notification to the Inspector General and Congress. We have attached a memorandum from 2011 that summarizes our views on Sections 6 and 8E of the Inspector General Act as they relate to the OIG's access to certain documents and materials gathered by the FBI.

Question. What, in your view, is the best way to address the limitation that has been placed on your access to certain documents and records? Do we need to pass legislation or can the problem be remedied by the Attorney General? Is it as simple as the Attorney General requiring the entire Department to allow you unfettered access to the documents and records necessary to conduct oversight?

Answer. We believe that the Attorney General or Deputy Attorney General can immediately remedy the problem by finding as a matter of policy and practice that the OIG is entitled to access all documents in the Department's possession that are relevant to an OIG review, and by directing all Department components to comply with such a finding by providing the OIG with timely access to relevant documents. Such a directive would obviate the need for additional legislation so long as it is in place. However, in the absence of such a finding and directive, given the Department's current process of requiring the OIG to obtain permission from Department leadership in order to obtain access to certain records in the Department's possession, we believe that corrective legislation would be necessary.

Question. The Attorney General stated that the Office of General Counsel has never ruled on the issue of access to documents and records by the Inspector General. If the Attorney General does not seek a formal ruling as I have requested of him, would you be willing to seek a formal ruling on these matters?

Answer. The OIG does not believe that a formal ruling is necessary to decide this issue because the Inspector General Act is already clear in authorizing the OIG to access all documents and materials in the possession of the Department that are relevant to our reviews. Moreover, the Department's practice until 2010 had been to provide the OIG with access to all relevant materials in the Department's possession.

Nevertheless, if the Attorney General concludes that a legal opinion is necessary, the OIG does not object to the Department requesting that its Office of Legal Counsel (OLC) rule on the issue of OIG access to grand jury, Title III, and Fair Credit Reporting Act information. However, given the continuing access issues that the OIG is facing and the impact that those issues have on our independence, it is critical that such a process move expeditiously and that OLC issue its opinion promptly. Additionally, we would object if the Department were to ask OLC for a broad opinion that covered OIG access to documents beyond the three categories of materials currently in dispute, or that sought to address access to documents by other Federal Inspectors General, because of the impact such a broad ruling could have on those other Federal OIGs and the lengthy process that would ensue were the OLC to consult those OIGs for their views.

Question. Mr. Horowitz, you have raised concerns about the distinction the Department makes between the treatment of misconduct by attorneys acting in their legal capacity and misconduct by other Department employees. In fact, your office has no authority to investigate misconduct by attorney's acting in their legal capacity. That authority has been granted to the Department's Office of Professional Responsibility.

—Why do you believe that these types of investigations should be the responsibility of your office rather than the Office of Professional Responsibility? Are there specific examples of investigations being called into question because they were handled by the Office of Professional Responsibility?

Answer. As stated in our response to the first question, we believe that all Department employees should be held to the same standards of accountability for misconduct, and we have long questioned the distinction between the treatment of misconduct by attorneys acting in their legal capacity and misconduct by other Department employees, including law enforcement agents. We believe the institutional independence of the OIG, which is codified in the Inspector General Act, and which OPR lacks, is critical to the effectiveness of our misconduct investigations. Moreover, Inspectors General across the Federal Government have the authority to handle misconduct allegations against lawyers acting as such within their agencies, and they have demonstrated that they are fully capable of dealing with such matters.

Additionally, the OIG's strong record of transparency is vital to ensuring the Department's accountability, particularly in cases where the independence or fairness of an internal review might be called into question. As noted in response to the first question, in recent months, others have expressed a similar concern, including the independent, non-partisan Project on Government Oversight (POGO), which issued a report last month that was critical of OPR's longstanding lack of transparency and recommended empowering our office to investigate misconduct by DOJ attorneys. The POGO report identifies specific examples of OPR investigations—including of the prosecution team in the case of former Senator Ted Stevens and of Department attorneys Jay Bybee and John Yoo in the torture memorandum issue—that it believes have fed skepticism about whether the Department is capable of investigating misconduct by its attorneys.

Question. Would such a change require a legislative fix or is this something that can be handled by the Attorney General?

Answer. In 2002, the 21st Century Department of Justice Appropriations Authorization Act amended Section 8E of the IG Act to specifically allocate to OPR exclusive jurisdiction over alleged misconduct by Department attorneys (except OPR attorneys) where the allegations relate to the exercise of the authority to investigate, litigate, or provide legal advice (Section 8E(b)(3)). Thus, notwithstanding a general provision of the IG Act (Section 9(a)(2)) that permits agency heads to transfer functions to the OIG, based on the specific language in the current law relating to jurisdiction over attorney professional misconduct allegations, it would appear that the Attorney General does not have the authority to transfer that function to the OIG. We therefore believe that legislation, such as the bipartisan legislation recently introduced by Senator Lee and co-sponsored by Senators Tester, Grassley, Murkowski, and Coburn, is the best way to address the issue.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

USA PATRIOT ACT REVIEW

Question. On March 17, 2010, I wrote to former Inspector General Glenn Fine and asked him to complete a number of audits of government surveillance authorities, including the use of Section 215 orders, pen register and trap and trace devices, and National Security Letters. On June 15, 2010, Inspector General Fine responded to my letter, indicating that a review to examine these provisions would be initiated by the Office of Inspector General. I understand that these reviews have commenced, yet, nearly 4 years later, I still have not seen final reports.

What is the status of these reviews and when can I expect to receive completed reports from your office?

Answer. We have completed the three reports regarding the above-mentioned matters and we expect to issue our latest report on the FBI's use of National Security Letters in the next few weeks. We provided our report on Section 215 orders and our report on pen register and trap and trace usage to the FBI on February 28 for a classification review of FBI information, but still have not received a completed classification review from the FBI or a date on which it will be completed. Without completed classification reviews from the FBI and the non-Department agencies whose information appears in the reports, we are prohibited from issuing our reports, including to Congress.

SUBCOMMITTEE RECESS

The next hearing will be on Thursday, April 10, at 10 a.m., in which we will take testimony from Secretary Pritzker, the Secretary of Commerce.

[Whereupon, at 12:05 p.m., Wednesday, April 3, the subcommittee was recessed, to reconvene at 10 a.m., Thursday, April 10.]

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2015**

THURSDAY, APRIL 10, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10:01 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Barbara A. Mikulski (chairwoman) presiding.

Present: Senators Mikulski, Reed, Merkley, Coons, Shelby, Collins, and Kirk.

DEPARTMENT OF COMMERCE

OFFICE OF THE SECRETARY

STATEMENT OF HON. PENNY PRITZKER, SECRETARY

OPENING STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI. Good morning, everybody. The CJS Subcommittee will come to order.

Today we will take the testimony of the Department of Commerce for the 2015 fiscal year. This is their budget request, and we will be listening to the Commerce Secretary, Penny Pritzker, testifying for the first time at CJS. One might recall that Secretary Pritzker was appointed in July of 2013. We had already had our hearings, though we've had many substantive and constructive conversations.

Also, we want to note that we will be putting into the record the testimony of the Inspector General, Todd Zinser. But in the interest of time, we're just going to enter that. We want to thank Mr. Zinser and the Inspector General Service Corps for all of the work that they do that gives us important insights on how we can manage our people and our resources better. We want to thank him for that. Just the fact that we're going to have many votes today, we've had to condense it.

His statement will not only be part of the record, but I will be including some of the issues he raises in my questions.

There is a vote at 10:30 a.m., so it will be the goal of Senator Shelby, my vice chairman, and myself to make our statements and listen to you, Madam Secretary, and then we'll return for questions.

This is one of 60 hearings that we're holding in six weeks because we want to complete our hearings as promptly but diligently as we can so we can mark up our bills and strive, for the first time since 1996, not to have a lame duck.

Madam Secretary, we look forward to hearing from you on both the budget request and the priorities of the Department of Commerce. We know that you bring to us a strong business background and that the tradition of the Secretary of Commerce has always been a President's liaison to the business community. We note that one of the signature priorities that you put forth is that America is open for business, and we look forward to hearing about that.

One of the things we agree about on a bipartisan basis are the great words of Ronald Reagan when he said "the best social program is a job," and we want to hear how the Department of Commerce helps generate jobs in our country and retain jobs in our country, and maybe even in manufacturing bring some of those jobs back home.

We know that today we want to hear about trade, innovation, and jobs. We want to know how the Department of Commerce is helping generate jobs by increasing exports and promoting economic growth. We need to also hear about spurring innovation, safeguarding our intellectual property and enforcing our trade laws, but at the same time having strong oversight.

The Department of Commerce has been plagued by some persistent problems, problems with the Census, problems with the NOAA satellite program, but I must say that under your diligent management you have really tried to solve those problems, and we appreciate that.

One of the areas that we see as one of the future jobs in this country is in the area of information quality assurance. The trendy, chic word now is "cyber-security." But if you lose your identity or somebody steals your intellectual property, it's not a trendy phrase; it is a harsh economic reality affecting either a person, a business, or the future of our country.

We see NIST, the National Institute of Standards and Technology, as one of the greatest and yet most undervalued agencies in the Federal Government constellation, and it provides the private sector a civilian portal in which they can engage in both inventing products, talking with each other, and working constructively. We want to hear the role of NIST in today's world and what does it take to do that, though we know that NIST plays a very important role in manufacturing.

The other thing of great concern is the stealing of our intellectual property, and that goes to, again, cyber security. But in this array of agencies you have the Patent and Trade Office, which is absolutely crucial. We believe in private property. We're capitalists on this committee. We believe in private property and that if you invented it, you should get to keep it and make sure that nobody steals it.

But we need an aggressive Patent Office. We know the Judiciary Committee is looking at this. We know that we've had a backlog.

There's the International Trade Office and the International Commercial Service where we actually have people overseas that

help our American businesses connect. We don't always talk about that in this committee, and we want to hear about it.

And also very important is NOAA, the National Oceanic and Atmospheric Administration. NOAA is important to all of us who are coastal Senators. I'm sure they'll be coming in later. You're not a coastal Senator unless you—I mean, the coastal Senators are united that we're all concerned about fisheries, about the species decline, and also, the very important weather satellites and the Weather Service.

Most people think weather comes from the Weather Channel. We think it's wonderful the way the private sector has taken the data and information NOAA generates and turns it into such a useful, exciting product for the American people. But you can't have the Weather Channel unless you have the Weather Service. And quite frankly, whether you're a military, a maritime service, or you are a municipal leader wondering what to do on a snow day or how to have tornado alerts in your community, you need NOAA. So we need to hear more about that.

PREPARED STATEMENT

There are other questions and things that I'm going to say. I'm going to yield any time I have back, ask unanimous consent that my full statement be in the record so that Senator Shelby can speak, we can get you to your testimony before the vote.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

This is one of 60 hearings the Appropriations Committee will hold over a 6 week period. We are doing our due diligence and the necessary work to get the job done. Our goal is to enact all 12 Appropriations bills before October 1, for the first time since 1996, in order to restore regular order—which means certainty and reliability in the appropriations process.

Today we will hear from Secretary Penny Pritzker about the Department of Commerce's fiscal year 2015 budget request and priorities. We also have written testimony from Commerce's Inspector General Todd Zinser.

We welcome Secretary Pritzker, who joined the Commerce Department in June of last year. We are very lucky to have her. She has a strong business background and has been a great leader at Commerce. Now she is the CEO of the Department of Commerce and America's Businesswoman in Chief, a leader to keep the economy rolling through trade, innovation, and jobs.

The Commerce Department is a major economic engine for America. The President's request totals \$8.8 billion for the Department. Today my goal is to examine how these funds will spur innovation. That includes safeguarding our intellectual property, and enforcing our trade laws. I want to know how the Department will create jobs, increase exports, and promote economic growth. We will also discuss how Commerce protects our citizens through forecasts and warnings about severe weather. Finally, is Commerce doing all it can to protect taxpayer dollars and use funds wisely?

The Secretary of Commerce is the spokesperson for American business. But the Secretary is also the chief manager responsible for addressing major challenges and persistent problems that need strong oversight including the National Oceanic and Atmospheric Administration's satellite procurement and the 2020 Census.

The Department of Commerce needs to be cyber-obsessed, creating ways to protect its own DOT.GOV systems, while working with the private sector to better protect DOT.COM. I want to be clear—cybersecurity is not surveillance. Cybersecurity means understanding and protecting us and our information from criminals out to steal our credit card information and personal identities, and to rob companies' intellectual property.

The total fiscal year 2015 National Institutes for Standards and Technology (NIST) budget request is \$900 million, and includes \$91 million for cybersecurity, research, and partnerships with private sector. NIST's job is to partner with the pri-

vate sector to solve today's cybersecurity problems. Earlier this year, NIST issued the voluntary Framework for Improving Critical Infrastructure Cybersecurity. Through research in the labs and at the National Cybersecurity Center of Excellence, NIST is generating innovation that protects people and companies, and creates cybersecurity jobs of the future that can never leave the United States.

NIST is not the only agency standing sentry over American innovation. The Patent and Trademark Office (PTO) protects ideas and inventions helping America's economy thrive. Inventors' new ideas become new products and, through entrepreneurship, new companies that create jobs. But inventors need a patent office to protect their ideas. The PTO is improving and getting patents out faster, but it can do more. More than 600,000 patents are waiting for approval, and it takes almost 2½ years to get a patent. PTO needs strong oversight from the Secretary and Congress. The PTO has been functioning without a Director since February 1, 2013.

Once a product is invented, we need to sell it around the world. The International Trade Administration (ITA) enforces our trade laws and agreements, protecting entire American industries. It promotes American products internationally and brings companies and jobs home to the United States. ITA's budget request of \$507 million is an increase of \$37 million above the fiscal year 2014 level of \$470 million. The ITA's Foreign Commercial Service helps American companies sell more goods overseas, getting products from American manufacturers to international customers. Exporting American goods and services supports roughly 10 million jobs in the United States.

The Economic Development Administration (EDA) invests in communities in all 50 States. EDA provides funding for projects such as water infrastructure for new hospitals, supporting thousands of local workers. Projects that promote infrastructure and innovation set our small businesses up for success. Every dollar put into the community through EDA grants leverages \$10 in local investment and creates jobs throughout the country.

When it comes to protecting people, every member of this subcommittee is pro-weather and pro-science. America has experienced several severe weather events these past few years and scientists suggest that extreme weather will continue. NOAA's satellites need to be fit for duty. We owe it to our communities, especially to the coastal States that depend on accurate hurricane forecasts and to the interior States that depend on timely tornado warnings. One-third of our GDP is directly affected by the weather. While Commerce's budget shows continued reforms to NOAA's satellite programs in response to critical reviews from this Committee and expert outside analysts, I remain concerned about the stability of these important satellite programs.

The Inspector General identified Census planning and management as a key challenge for the Department of Commerce. Controlling costs for the 2020 Census is a top oversight concern for the Inspector General, the Government Accountability Office, and the Appropriations Committee. The budget request of \$1.2 billion for the Census is an increase of \$266 million above the fiscal year 2014 level of \$945 million to prepare for 2020 Census. I want to know what is being done to make the 2020 Census less expensive than the 2010 Census and to prevent techno-boondoggles that caused 2010 Census costs to skyrocket.

I want to thank all the men and women of the Commerce Department—trade experts, statisticians, patent and trademark examiners, scientists and engineers, ocean surveyors, and weather forecasters. They work hard every day promoting American businesses, protecting American ideas and resources, keeping our economy moving forward and creating jobs. Secretary Pritzker—thank you for your leadership and also for your continued oversight of the Department of Commerce. We look forward to hearing your testimony.

STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Madam Chairman.

Welcome, Secretary Pritzker. As the chair said, this is your first hearing, your first appearance before this committee.

The Department of Commerce, as everybody knows, is responsible for a broad range of activities critical to our Nation. Weather forecasting, fisheries management, economic development, and trade enforcement are just a few of the Department's responsibilities.

In a time of constrained budgets, prioritization and strong oversight are essential to keeping the Department on the right path,

and the request for 2015 is \$8.7 billion, \$568 million more than the 2014 enacted level.

The budget request attempts to balance, as I understand it, the wide range of activities under the purview of the Department. Finding that balance remains a challenge. Costly satellite procurements and the build-up to the 2020 Census adds significant budget pressures that could impact other important core programs.

Ensuring that priority satellite projects stay on schedule and on budget is essential to the overall budget picture. As the Department develops long-range plans for satellite procurements, I believe it must maintain a focus on these projects that ensure weather forecasters have the data and information they need to protect life and property. And while there are a number of satellite projects on the books, resources are limited.

I am concerned that the Department has not prioritized these costly projects yet based on the value of services they provide to the core mission of the agency. Madam Secretary, when it comes to projects of this magnitude and this cost, the Department, I believe, must differentiate between the must-haves, must-haves such as JPSS and GOES-R and the nice-to-haves, nice-to-have projects like Cosmic, and Cosmic-2.

Unfortunately, I'm not convinced that all of the satellite projects that the Department is focused on are truly necessary to the core mission of NOAA, which is very important to all of us that the chairman referenced. My concern is exacerbated by reports from the GAO and the Department of Commerce Inspector General suggesting that a gap in polar satellite data is likely.

Without this data, weather forecasters would be unable to do their jobs and the safety of millions of Americans could be in jeopardy. Yet the Department thus far has failed to present a viable gap mitigation plan in the 2015 request, choosing instead to advance nice-to-have satellite projects. I wish you would look at that very, very closely. It certainly troubles a lot of us.

Finally, I want to touch on the Department's request for Economic Development Administration funds. The Department has once again proposed to shift support away from traditional effective economic development programs that help distressed communities to fund a new community planning program. The Investing in Manufacturing Communities Partnership Program proposes to support 25 communities in this country, just 25 communities that the Administration believes have the best economic development planning regime in place.

The program gives selected communities a seal of approval intended to signal to business and industry around the world that the community has been chosen by the Government, by the Administration, as worthy of investment. Additionally, chosen communities will be granted priority access to Federal resources. Sounds like central planning to me.

I'm concerned that this type of system allows the Administration ultimately to pick a lot of winners and losers, and there are many communities that have worked diligently in this country to recruit business and industry, and I worry that their future efforts might be disadvantaged by this new program if they're not chosen. And what's more, I'm concerned that they might be further disadvan-

taged in obtaining Federal grants because their grant applications won't be given the same consideration as a chosen community.

I believe sustained growth and competitiveness should be a priority for communities everywhere in this country. It should not be restricted to a few manufacturing communities hand-picked by this Administration or any administration, and I look forward to working with you at the Department on these issues because I think they're very important.

We welcome you again to the committee.

Senator MIKULSKI. We want to note that Senator Jack Reed from Rhode Island, Senator Merkley, and Senator Mark Kirk are here.

Understanding the vote, I'd like to get to Secretary Pritzker's testimony and try to get in as many questions as we can before the vote.

Madam Secretary, why don't you proceed with your testimony?

SUMMARY STATEMENT OF PENNY PRITZKER

Secretary PRITZKER. Thank you very much. Chairwoman Mikulski, Vice Chairman Shelby, and members of the subcommittee, thank you for this opportunity to discuss President Obama's fiscal year 2015 budget request for the Department of Commerce.

HIGHLIGHTS OF THE DEPARTMENT OF COMMERCE BUDGET

The Department of Commerce budget request of \$8.8 billion reflects President Obama's commitment to support American businesses and create economic opportunity, while building upon the important investments that Congress enacted in fiscal year 2014.

As you may know, the Department recently rolled out its priorities and strategic plan called the "Open For Business Agenda." The budget reflects our priorities in several ways. First, we will build on the four consecutive record-breaking years of American exports and the trend of rising business investment into the United States. We propose that the International Trade Administration receive an 8 percent increase, which will bolster our work to support current and potential exporters, boost in-bound investment through our highly effective SelectUSA program, and strengthen trade enforcement.

I should also note that 2015 will conclude the biggest element of the President's Export Control Reform Initiative, which strengthens our national security and allows for more trade with our allies.

Second, we will continue to support American innovation. The Commerce Department is becoming known as the Department of Innovation. Over the past few years, we have laid down more than 100,000 miles of broadband, bringing more opportunity to businesses and communities across the country. We have also reduced the patent application backlog, though we still have more work to do.

To continue driving innovation, the budget includes increased funding for research at bureaus such as the National Institute for Standards and Technology; as you know, NIST attracts private sector partners to collaborate with us in areas ranging from advanced manufacturing to cyber security.

Looking forward, we will expand efforts to help small manufacturers adopt new technologies and increase their competitiveness through AMTech and our MEP program.

In addition, the budget reflects the President's call for a national network of manufacturing innovation, a powerful model focused on pre-competitive research which already has bipartisan support in the House and the Senate.

We will also drive innovation through regional capacity building, continued support for minority-owned businesses, and both executive and legislative efforts to continue strengthening our patent system, an issue that Congress is currently working to address.

Third, we will do more to unleash the potential of data. The budget proposes a significant increase, to \$754 million, to prepare for an efficient and effective 2020 Census. We have embarked on aggressive research and testing programs that will help us identify ways to make it easier for people to respond to the Census. We will consistently review the benchmarks of this program to ensure that we are better able to meet our goals.

As you know, business and government leaders across the country use crucial data to make decisions about growth and hiring. Also, I recently announced that we will partner with the private sector to make more NOAA data accessible and usable for entrepreneurs and the public. This budget supports this effort into fiscal year 2015.

Fourth, we will gather and act on environmental intelligence. The budget includes \$2 billion for satellites which provide weather and climate data to protect lives and property. These funds will also help businesses and communities adapt to a changing planet.

I should note that these satellite programs are currently on schedule and on budget thanks to our rigorous monitoring and management efforts.

The budget also includes \$519 million for our National Ocean Service, which provides the resilience of our coasts, as well as \$917 million for our National Marine Fisheries Service.

PREPARED STATEMENTS

In closing, as a former business leader, I strongly believe that this budget reflects wise, targeted investments of taxpayer dollars, investments that will be highly valued by the Commerce Department's stakeholders. I look forward to answering your questions and achieving the important vision laid out in our Department's strategic plan.

[The statements follow:]

PREPARED STATEMENT OF HON. PENNY PRITZKER

Chairwoman Mikulski, Vice Chairman Shelby, and members of the subcommittee, thank you for this opportunity to discuss with you President Obama's fiscal year 2015 budget request for the Department of Commerce. The investments included in the fiscal year 2015 budget request build upon the important investments you enacted in fiscal year 2014 and I am grateful for your support.

Our fiscal year 2015 budget requests \$8.8 billion, a 7 percent increase over fiscal year 2014. This budget supports the Department's "Open for Business Agenda" by promoting trade and investment; spurring innovation; fueling our data-driven economy; and producing environmental intelligence. Investing in these areas builds on President Obama's vision for creating economic opportunity for all Americans. This budget will help drive economic growth and job creation and reflects his confidence

in the Department's ability to help businesses grow, compete, and innovate as the voice of business in the administration.

The President's vision for creating economic growth is further supported through the Department's request in the Opportunity, Growth, and Security Initiative. This fully paid for initiative lays out a roadmap for additional investments in critical areas such as research and development, climate resilience, economic development, and manufacturing.

We are committed to working with the Congress to pass a budget that will continue to help create the conditions necessary for businesses to grow and hire, and for the U.S. economy to thrive.

PROMOTING TRADE AND INVESTMENT

Increasing trade and investment is a critical component of growing our economy. Exports have driven nearly one-third of economic growth since 2009 and support 11.3 million jobs. Ninety-six percent of companies that export are small and medium enterprises (SMEs). Today, 95 percent of potential customers are outside our borders and growing the number of export-related jobs, which pay 18 percent more on average, will require expanding our ability to reach these foreign markets. To promote exports and greater investment in the U.S., including foreign direct investment and U.S. companies reinvesting in America, the budget includes \$497 million for the International Trade Administration (ITA), an 8 percent increase over the 2014 enacted level. I want to thank the subcommittee for their support of SelectUSA in fiscal year 2014 and we plan to put more muscle behind this new program, which will bring more foreign investment dollars to the United States and encourage American companies to reinvest in America.

To reinforce the important role that investment plays in the health of our economy, the budget also proposes to rename the International Trade Administration to the International Trade and Investment Administration (ITIA). This new name more accurately reflects the Commerce Department's commitment to expanding exports while also making inbound investment and reshoring a bigger part of the DNA of our economy. Five million six hundred thousand jobs are supported by inbound investment and the trends are in our favor to attract more. The additional resources requested in the fiscal year 2015 budget will enable ITIA, and specifically SelectUSA, to help more states and regions attract additional investments and create more jobs.

Funding requested for ITIA includes \$15 million, a \$7.7 million increase from fiscal year 2014, to accelerate operations of the Interagency Trade Enforcement Center (ITEC), an interagency effort to address unfair trade practices and barriers to boost U.S. exports, and \$20 million, a \$13 million increase from fiscal year 2014, to expand SelectUSA.

The budget includes \$4 million for the Bureau of Economic Analysis (BEA) to improve the measurement and understanding of U.S. foreign direct investment in support of the SelectUSA initiative. The additional funds will support increased export promotion activities in underserved markets around the world. The budget also supports the administration's BusinessUSA initiative, a one-stop shop to connect business with Federal Government resources more effectively and efficiently.

The budget includes \$111 million for the Bureau of Industry and Security (BIS), a \$9 million increase, to enforce our export control laws to ensure that our national security is protected even as we foster trade. This will support BIS's continuing work on export control reform, which will help advance national security and economic competitiveness by better focusing U.S. controls on transactions to destinations or end users of concern, while facilitating secure trade for controlled items with U.S. allies and close partners by expanding export control officers operations, enhancing current intelligence efforts, and expanding the bureau's national enforcement and analytical capabilities.

SPURRING INNOVATION

Much of what makes America unique is our spirit of innovation and entrepreneurship. Today, the United States has 6 million workers employed in technology and the highest concentration of knowledge and technology intensive industries in the world, representing 40 percent of our GDP.

To foster a more innovative U.S. economy, the budget will support increased regional and national capacity for innovative manufacturing, continue to support research and development (R&D) that leads to transformative changes in technology, promote intellectual property policy that supports innovation, and continue to strengthen the Nation's digital economy.

The budget provides \$141 million, a \$13 million increase over the fiscal year 2014 enacted level, for the Hollings Manufacturing Extension Partnership (MEP), with an increased focus on expanding technology and supply chain capabilities to support technology adoption by smaller manufacturers to improve their competitiveness.

The budget also provides \$15 million for the Advanced Manufacturing Technology Consortia (AMTech), a public-private partnership that will support industry-led consortia developing technologies to address major manufacturing challenges faced by American businesses. The administration has also launched four manufacturing institutes to date and is planning to launch at least four additional manufacturing institutes in 2014 utilizing existing Federal funding.

The budget provides \$680 million for the National Institute of Standards and Technology (NIST) laboratories, an increase of \$29 million over fiscal year 2014, to accelerate advances in top research priorities, including advanced manufacturing, forensics, cybersecurity and disaster resilience, and improved scientific facilities. Included in this amount is \$6 million for NIST to accelerate and expand technology transfer across the Federal Government, which will enhance the competitiveness of U.S. industry by sharing innovations and knowledge from Federal labs. NIST contributes to the success of businesses on issues ranging from cybersecurity to advanced manufacturing. This funding will enable NIST to continue to support economic growth in the future.

To continue expanding broadband capacity and promoting policies to ensure a free and open Internet, the budget requests a total of \$51 million for the National Telecommunications and Information Administration (NTIA), an increase of \$5 million over fiscal year 2014. This increase will support increasing wireless broadband access and critical telecommunications policy coordination.

The budget includes \$210 million for the Economic Development Administration (EDA) to support innovative economic development planning, regional capacity building, and capital projects. This includes \$25 million for the Regional Innovation Strategies Program to promote economic development projects that spur entrepreneurship and innovation at the regional level. This investment will make our Nation and communities more competitive.

The budget also includes \$28.3 million for the Minority Business Development Agency (MBDA) that will enable the agency to continue supporting the national growth of minority-owned U.S. businesses, with additional focus on impacting regional economies and expanding into new markets. Minority owned firms make a significant and valuable contribution to our economy and export at a higher rate compared to all U.S. firms. This investment will promote further growth.

Through implementation of the America Invents Act, the U.S. Patent and Trademark Office (USPTO) continues to make it easier for American entrepreneurs and businesses to bring their inventions to the marketplace sooner, converting ideas into new products and new jobs. Last year alone, the USPTO received more than 35,000 design patent applications and recently commemorated its 700,000th design patent. PTO's estimated fee collections in fiscal year 2015 are \$3.4 billion.

The budget also proposes several legislative reforms designed to improve the transparency and efficiency of the American patent system, complementing a series of administrative actions the administration announced in June 2013, which will help protect innovators from frivolous litigation and ensure the highest-quality patents in our system.

FUELING A DATA-DRIVEN ECONOMY

Data powers the 21st century economy, and Commerce Department data touches every American and helps existing businesses make better decisions while also providing opportunities for more entrepreneurs to launch startups. The budget will support data-related efforts ranging from our preparations for the 2020 Census to unleashing more NOAA data through public-private partnerships. Each day, NOAA collects and produces 20 terabytes of environmental data—from weather forecasts to climate change to ocean currents. Yet, only a small percentage of this valuable data, roughly two terabytes, is made easily accessible to the public.

The budget includes \$754 million, an increase of \$260 million over the 2014 enacted level, for the U.S. Census Bureau to research and test innovative design methods necessary to achieve an efficient and effective 2020 Decennial Census. The budget also requests \$12 million to invest in the development of three Commerce statistical measures that will improve evidence-based decisionmaking across the Federal Government and the private sector. This includes \$5 million for the Census Bureau to improve the supplemental poverty measure to allow for more fair and accurate indexing and analysis of poverty programs.

The budget also includes \$5 million for the Census Bureau to increase access to critical business datasets and create a new field of research into the conditions and outcomes of business investments in research, development, and innovation by expanding existing data projects. An additional \$2 million within BEA will initiate “Big Data for Small Business,” a new data program that will collect a Small Business GDP measure to support decisionmaking by business owners and investors as well as small business analyses.

GATHERING AND ACTING ON ENVIRONMENTAL INTELLIGENCE

The President’s budget makes crucial investments in our environment, including efforts to protect our natural resources and to help businesses and communities adapt to a changing planet. Through our network of satellites, ships, and worldwide sensors, the Department generates models, assessments, forecasts, and tools that provide information to help communities and businesses prepare for and prosper in a changing environment. Importantly, the proposed budget will also keep our satellite programs on track by providing \$2 billion to fully fund the National Oceanic and Atmospheric Administration’s (NOAA’s) next generation of weather satellites, which are critical to its ability to provide accurate information to decision-makers throughout the government and private sector, as well as time-sensitive weather forecasts and warnings that help protect lives and property. This includes \$60 million to procure additional weather instruments for the polar program and helps address the robustness of the polar constellation.

The budget requests \$519 million for the National Ocean Service to make critical investments in products, services and capabilities that will improve the resilience of the Nation’s coasts. The budget also requests \$917 million for the National Marine Fisheries Service to conserve, protect, and manage living marine resources, including important increases for next-generation stock assessments, and electronic monitoring and coral reef protection.

CONCLUSION

The smart investments proposed in President’s fiscal year 2015 budget will support a globally competitive economy by promoting trade and investment, spurring innovation, fueling a data-driven economy, and gathering and acting on environmental intelligence. I look forward to working with the subcommittee to achieve these important goals.

PREPARED STATEMENT OF HON. TODD J. ZINSER, INSPECTOR GENERAL

Chairwoman Mikulski, Ranking Member Shelby, and members of the subcommittee:

I appreciate the opportunity to provide testimony today as you consider upcoming appropriations for the Department of Commerce. The President’s fiscal year 2015 budget requests \$12.2 billion for the Department, including \$3.4 billion for U.S. Patent and Trademark Office (USPTO) user-fee financing. The Department plays a pivotal role in implementing the President’s initiatives for economic recovery and job creation—and, like other Federal agencies, faces significant challenges in the upcoming year.

We addressed these areas in our recent *Top Management Challenges (TMC)* report,¹ which we prepare annually as required by the Reports Consolidation Act of 2000.² Our *TMC* reports in depth what we consider, from our oversight perspective, to be the most significant management and performance challenges facing the Department:

- Challenge 1.* Strengthen Commerce infrastructure to support the Nation’s economic growth.
- Challenge 2.* Strengthen oversight of National Oceanic and Atmospheric Administration (NOAA) programs to mitigate potential satellite coverage gaps, address control weaknesses in accounting for satellites, and enhance fisheries management.
- Challenge 3.* Continue enhancing cybersecurity and management of information technology investments.
- Challenge 4.* Exercise strong project management controls over 2020 Census planning to contain costs.

¹U.S. Department of Commerce Office of Inspector General, November 25, 2013. *Top Management Challenges Facing the Department of Commerce*, OIG–14–002. Washington, DC: DOC OIG.

²31 U.S.C. § 3516(d).

—*Challenge 5.* Continue to foster a culture of management accountability to ensure responsible spending.

Today I will summarize several challenges facing the Department, based on recent and ongoing audits, evaluations, and investigations. Recently, the Secretary and Departmental leadership published a strategic plan for fiscal years 2014–2018. We consider the plan a significant achievement in establishing a framework for the diverse missions of the Department and its organizational units. The plan established 5 strategic goals: trade and investment, innovation, data, environment, and operational excellence. Much of our work addresses the goal of “operational excellence,” which will be the focus of our testimony.

ADDRESSING ISSUES WITH NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
(NOAA) WEATHER SATELLITE PROGRAMS

The Department must actively manage risks associated with the acquisition and development of the next generation of NOAA environmental satellites, as they are its largest investments at more than 20 percent of its \$8.8 billion budget request. The Joint Polar Satellite System (JPSS) program’s challenge is to keep JPSS–1 development on track to meet its second quarter fiscal year 2017 launch schedule—while taking steps to mitigate a potential data gap in the afternoon polar orbit, as well as implementing NOAA’s Independent Review Team recommendations to make the constellation more robust. The Department must also ensure that the Geostationary Operational Environmental Satellite–R Series (GOES–R) program continues to meet requirements within its long-standing cost and schedule baselines for a launch readiness date of October 2015 for the first satellite.

Of note, NOAA has improved its communication with stakeholders, as well as the efficacy of satellite program leadership and staffing, and developed a comprehensive polar satellite data gap mitigation plan.

Mitigating Potential JPSS Coverage Gaps

In its fiscal year 2015 budget submission, NOAA requested \$916.3 million for its JPSS program, reporting that the \$95 million increase from the prior year would not change the program’s life-cycle cost of \$11.3 billion through fiscal year 2025. The first JPSS-developed satellite (JPSS–1) is scheduled for launch no later than the second quarter of fiscal year 2017.

The JPSS program must successfully execute to cost, schedule, and performance baselines established August 1, 2013. The program must also ensure that flight and ground schedules are fully integrated for the JPSS–1 mission. NOAA leadership must also ensure the program is able to effectively manage ongoing development while responding to concerns about the robustness of program development activities (e.g., the need for spare parts for JPSS–1 and JPSS–2 instruments and spacecraft) and the need for further gap mitigation.

NOAA has begun to mitigate potential degradation to weather forecasting capabilities during polar-orbit data coverage gaps through the use of supplemental funding it received as part of the Disaster Relief Appropriations Act, 2013. NOAA should ensure that its gap mitigation plan is executed before the November 2016 design-life end of Suomi National Polar-orbiting Partnership (NPP), a risk-reduction satellite launched in October 2011.

Consistent with our September 2012 JPSS audit report,³ we continue to project a potential 10–16-month gap between Suomi NPP’s end of design life and when JPSS–1 satellite data become available for operational use. NOAA’s medium-range weather forecasting (3–7 days) could be degraded during the period of time JPSS data are unavailable, but NOAA must do more research using past and current weather events to determine the extent to which forecasts may be affected.

In March 2014, we learned that the JPSS program had revised its projections for a coverage gap between Suomi NPP and JPSS–1. During 2013, the program analyzed the expected reliability of Suomi NPP and concluded that the potential gap had narrowed to 3 months or less. It also determined that, should Suomi NPP have an early failure, data or imagery loss would be partially mitigated by data provided by legacy satellites. Regardless of NOAA’s revised gap projection, in the long term those legacy satellites can no longer be expected to function, leaving the JPSS constellation as the sole provider of key data from the afternoon polar orbit. This reinforces the need to make the constellation more robust, as recommended by NOAA’s independent review team.

³DOC OIG, September 27, 2012. *Audit of the Joint Polar Satellite System: Continuing Progress in Establishing Capabilities, Schedules, and Costs Is Needed*, OIG–12–038–A. Washington, DC: DOC OIG.

Managing GOES-R Program Issues With Launch Readiness and System Development

With four satellites (the -R, -S, -T, and -U series), the GOES-R program is estimated to cost \$10.8 billion over the course of its life cycle. GOES-R, with scope and importance comparable to JPSS, has experienced development and budgetary challenges that could delay the launch readiness date of its first satellite from the first to the second quarter of fiscal year 2016.

The GOES-R program must continue to manage its ground system, instrument, and spacecraft development to meet requirements within its long-standing cost and schedule baselines—and successfully complete the integration and test phase. In addition, the program must effectively manage activities between flight and ground projects in a compressed development schedule environment.

In our 2013 GOES-R audit report,⁴ we found that schedule slips and a potential reduction in testing activities have raised concerns about the satellite's readiness to launch. Funding stability in fiscal year 2014 and beyond is the program's top risk; an appropriation amount below the fiscal year 2015 requested level may delay launch. For these reasons, one of our recommendations was that NOAA implement a comprehensive plan to mitigate the risk of potential launch delays and communicate to users (e.g., in the National Weather Service and Department of Defense) and other stakeholders (e.g., the Administration, Congress) the changes that may be necessary to maintain GOES-R's launch readiness date of 2015.

In a March 2014 memorandum⁵ to the NOAA Administrator, we shared our initial audit observations on the GOES-R core ground system development and made critical observations about the performance of NOAA and its contractor. We observed (1) poor planning assumptions, (2) inability to execute the first re-plan, and (3) inadequate transparency about progress. Further, we found that NOAA oversight and GOES-R program management did not sufficiently address problems with the first re-plan that could now lead to increased costs—and NOAA may have to launch a satellite without all of the core ground system capabilities implemented. Based on previous performance we believe that, without leadership's attention, the core ground system may not meet minimum requirements for launch in October 2015. As a result, we believe that the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator should establish periodic discussions with both Departmental and contractor leadership to ensure the core ground system will meet the October 2015 launch readiness date.

Ongoing OIG Investigation

In mid-2013, OIG received an anonymous whistleblower tip about a team-building exercise conducted by the GOES-R ground segment project staff that was improperly billed to the Government. In our subsequent investigation, we found that 21 Government employees and consultants employed by private companies were invited to attend a group lunch at a local restaurant, followed by a daytime showing of *Star Trek: Into Darkness*. Twenty individuals working on the GOES-R ground project attended the lunch and 18 attended the movie; the vast majority of participants mischarged the Government for participating in these activities. As a result of our investigation, those participants worked with NOAA to amend their records and claim personal leave for time spent at the lunch and movie. As a result of our investigative activities, approximately \$3,500 that was mischarged to the Government was returned. OIG suggested that clear written guidance on proper timekeeping be communicated to agency and contractor staff in advance of any similar work group outings. Commendably, one consultant made a self-disclosure that more time was spent at the offsite event than determined by the program office; OIG is currently looking into whether the amount returned is adequate.

For further details, see Appendix A, "Addressing Issues with NOAA Weather Satellite Programs."

MANAGING THE CENSUS BUREAU'S 2020 DECENNIAL PLANNING AND OTHER CENSUS BUREAU ISSUES

The 2020 decennial census, though years away, is a massive undertaking that requires extensive planning and testing. For 2020, the Census Bureau plans to design and conduct a high-quality decennial operation that will cost less per household on

⁴ DOC OIG, April 25, 2013. *Audit of Geostationary Operational Environmental Satellite-R Series: Comprehensive Mitigation Approaches, Strong Systems Engineering, and Cost Controls Are Needed to Reduce Risks of Coverage Gaps*, OIG-13-024-A. Washington, DC: DOC OIG.

⁵ DOC OIG, March 6, 2014. *Interim Memo re: Audit of NOAA's Geostationary Operational Environmental Satellite-R Series Core Ground System*, OIG-14-014-M. Washington, DC: DOC OIG.

an inflation-adjusted basis than the 2010 Census. Research and testing for the 2020 Census must be completed early in the decade, to design a census that will meet congressionally-mandated deadlines and to succeed at the task of counting millions of people and housing units. Recent and ongoing OIG reports on the Census Bureau meeting these challenges concern decennial planning, design decisions, and integration of schedule and budget.

2020 Census Planning

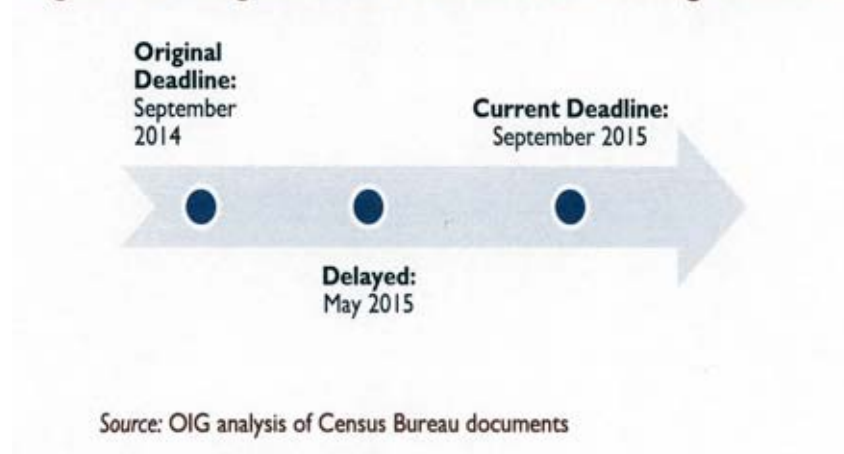
During our December 2013 evaluation⁶ of 2020 Census planning efforts to design a 2020 decennial census that costs less per household than the 2010 Census, we noted significant schedule slippage in the Census Bureau's key research and testing programs. If continued, missed deadlines will translate into an untenable continuation of an already expensive design. According to the Bureau, the cost (in constant dollars) of counting each housing unit in 2010 was \$94—and could reach an estimated \$148 if the same design is repeated for 2020. Using the same 2010 design, and assuming no changes in the number of housing units over the next 10 years, the 2020 Census would cost more than \$19 billion.

2020 Census Design

To reduce 2020 Census costs, the Bureau is conducting research that focuses on several design features, such as offering the Internet as a response option, conducting a targeted address canvassing operation, and using administrative records to follow up on cases of nonresponse.

An ongoing challenge we have identified is the lack of an established schedule. The Census Bureau revises baselines (i.e., re-baselines), which can mask delays and give the appearance that schedules are met. For example, major decision points for the 2020 Census have been re-baselined several times, with original deadlines pushed back from September 2014 to September 2015 (see figure 1).

Figure 1. Shifting Deadlines: The 2020 Census Design Decision



2020 Census Integrated Schedule and Budget

Last decade, OIG recommended that the Census Bureau integrate cost and schedule activities to enable managers to better track the status of available funds, as well as forecast impending underruns and overruns, so that funds can be reallocated promptly. In response, the Bureau planned to incorporate earned value management, a process that combines measures of a project's schedule and cost to forecast performance problems. As of March 2014, the Bureau had not incorporated earned value management into its activity schedules, limiting its ability to make decisions based on objective data.

⁶DOC OIG, December 3, 2013. *2020 Census Planning: Research Delays and Program Management Challenges Threaten Design Innovation*, OIG-13-003-A. Washington, DC: DOC OIG.

To effectively manage a program of the size, complexity, and cost of the 2020 Census—and assess the return on investment of research efforts—managers require accurate accounting records. However, we recently found that many Census Bureau staff stated that they are charging their time to projects based on budgeted hours rather than actual hours worked. Inadequate accounting of employees' actual work, as well as inaccurate project costs, hinder the Bureau's ability to assess the return on investment of research efforts. Additionally, these issues affect the Bureau's ability to make informed decisions about how to accomplish budget reductions.

Ongoing OIG Investigation

OIG is currently reviewing allegations of survey data falsification within the Census Bureau's Philadelphia Regional Office. OIG received allegations of data falsification in 2010 related to activities in this region, which were investigated and subsequently returned to the Census Bureau in 2011 for appropriate action.

In late 2013, a whistleblower contacted OIG and provided a related but new complaint, which was also covered in various media outlets. The most recent information we received also contained new allegations that the Philadelphia Regional Office, through the systemic falsification of survey data, attempted to manipulate the unemployment report in advance of the 2012 Presidential election. As a result, we opened a new investigation, which reviewed the allegations from 2010 and also significantly expanded the scope to include new information. We plan to release our public report in 2014.

For further details, see Appendix B, "Managing the Census Bureau's 2020 Decennial Planning and Other Census Bureau Issues."

ENHANCING DEPARTMENTAL CYBERSECURITY

To deal successfully with cyber threats, the Department needs to establish a robust incident response capability, specifically within the Department of Commerce Computer Incident Response Team (DOC CIRT). In addition, the Department must deploy a sustainable implementation of its three enterprise-wide cybersecurity initiatives that are underway to continuously monitor its IT systems, provide cyber security situational awareness, and meet requirements to optimize and standardize its individual external network connections.

While the Department is making progress in these areas, the challenge the Department faces—largely because of its highly fragmented operating environment—is to ensure productive collaboration among all bureaus to effectively improve the Department's cybersecurity posture.

Enhancing the Department's Cyber Incident Detection and Response

The Department needs to establish a robust cyber incident response capability, specifically within DOC CIRT. Furthermore—because DOC CIRT primarily provides incident response services only to bureaus located at the Department's Herbert C. Hoover Building headquarters—ensuring productive collaboration among all bureaus is critical for the Department to effectively respond to a cyber event.

OIG recently conducted an audit of the incident detection and response capabilities of several bureaus within the Department. Our audit complemented work already done by the Department and identified further improvements needed in its incident detection and response practices. Specifically, we tested Department public-facing Web sites by simulating a cyber event consisting of prolonged suspicious network traffic that mimics real-world hacking techniques and cyber attacks. We found that bureaus' actions in response to our suspicious network activities may not stop cyber attacks in a timely manner—and are recommending that the Department ensure that bureaus follow NIST guidance to take timely action in response to a potential cyber attack.

Implementing Enterprise Cybersecurity Initiatives

We noted, in our fiscal year 2014 *TMC* report, that the Department has three enterprise cybersecurity initiatives underway to address mandates from the Office of Management and Budget (OMB). The Enterprise Cybersecurity Monitoring and Operations (ECMO) and Enterprise Security Oversight Center (ESOC) initiatives support OMB's mandate⁷ to continuously monitor security-related information from across the enterprise. The Trusted Internet Connections (TIC) initiative supports

⁷ Executive Office of the President Office of Management and Budget, April 21, 2010. *Fiscal year 2010 Reporting Instructions for the Federal Information Security Management Act and Agency Privacy Management*, Memorandum M-10-15. Washington, DC: OMB, 1.

the mandate⁸ that Federal agencies optimize and standardize their individual external network connections, including connections to the Internet. Collectively, these undertakings should significantly improve the Department's cybersecurity posture.

Timely implementation of these initiatives is crucial to the Department's cybersecurity program, particularly in light of the ever-increasing cyber threats facing government systems. The ECMO and ESOC initiatives are critical to maintaining cybersecurity best practices to protect network components, implementing continuous monitoring, and providing timely cyber situational awareness across the Department. Thus, the Department needs to ensure that current efforts for these initiatives move forward as planned and that operating units cooperate and participate to the fullest extent. The Department projects spending, from the fiscal year 2015 working capital fund, \$4.2 million for each of the ECMO and ESOC initiatives (for a total of \$8.4 million).

Our recent audit of the Department's incident detection and response practices included four bureaus that have complied with the TIC initiative through a Managed Trusted Internet Protocol Services (MTIPS) provider. We found that these bureaus are not realizing the full benefits of incident detection and response capabilities provided by MTIPS. The bureaus are not working with the MTIPS provider to more effectively use MTIPS services to supplement their security operations center capabilities to fill gaps in monitoring coverage during nonbusiness hours. Furthermore, only one bureau is exploring opportunities to leverage MTIPS security services to reduce or eliminate services that are currently handled by the bureau.

Ongoing OIG Work

As part of our annual Federal Information Security Management Act audit work, we are assessing the effectiveness of NOAA's IT security program by determining whether key security measures adequately protect its mission capabilities supported by the National Environmental Satellite, Data, and Information Service (NESDIS) and the National Weather Service (NWS). The assessments focus on NESDIS' Polar-orbiting Operational Environmental Satellites (POES), Geostationary Operational Environmental Satellites (GOES), Joint Polar Satellites System (JPSS), Environmental Satellite Processing Center (ESPC), Search and Rescue Satellite Aided Tracking (SARSAT), and NWS' Aviation Weather Center (AWC), Space Weather Prediction Center (SWPC), Storm Prediction Center (SPC), National Hurricane Center (NHC), and National Centers for Environmental Prediction (NCEP) Central Operations. We are currently making recommendations to address weaknesses we found during our assessments.

For further details, see Appendix C, "Enhancing Departmental Cybersecurity."

REDUCING USPTO BACKLOGS

Reducing Patent Backlogs

USPTO, as the authority for reviewing and adjudicating all patent and trademark applications, must continue to focus on issues with the time applicants wait before their patent applications or appeals are reviewed. Its longstanding challenge has been to reduce backlogs of new patent applications, Patent Trial and Appeal Board (PTAB) ex parte appeals, and requests for continued examination (RCEs). As it works to reduce its patent backlog and pendency—while meeting the requirements of the 2011 American Invents Act (AIA)—USPTO must ensure that the quality of its patent examination process is not adversely affected and to avoid requiring applicants and the public to file unnecessary and costly challenges to examiners' decisions.

Since we issued the fiscal year 2014 *TMC* report in November 2013, the new application backlog has increased to 604,700 (as of February 2014). The patent appeals backlog—which we reported on in our 2012 audit⁹—has begun to slowly decrease and, as of November 2013, stands at approximately 25,000, still almost twice the size of the backlog in October 2010.

However, USPTO's backlog for requests for continued examination (RCE) has experienced the most variability, growing from 17,800 applications in October 2009 to approximately 78,000 in September 2013, an increase of more than 340 percent. As a consequence, during the same period, the average waiting time between filing an RCE and receiving an initial decision has grown from 2.1 to 7.8 months. From the

⁸ OMB, November 20, 2007. *Implementation of Trusted Internet Connections (TIC)*, Memorandum M-08-05. Washington, DC: OMB, page 1. Also, see OMB, September 17, 2009. *Update on the Trusted Internet Connections Initiative*, Memorandum M-09-32. Washington, DC: OMB, 1.

⁹ DOC OIG, August 10, 2012. *USPTO's Other Backlog: Past Problems and Risks Ahead for the Board of Patent Appeals and Interferences*, OIG-12-032-A. Washington, DC: DOC OIG.

beginning of the fiscal year until February 2014, the RCE pendency has decreased to 6.9 months, but the RCE backlog still hovers near 80,000. (For further details on backlogs and pendency over the last 5 full fiscal years, see table 1. Pendency statistics as of February 2014 may reflect month-to-month variations; as a result, we cannot determine an overall trend for fiscal year 2014.)

Table 1. New Application, Appeal, and RCE Backlogs and Pendency^a

FY	Patent Application Backlog	Traditional Patent Pendency (Months) ^b	PTAB Ex Parte Appeal Backlog	PTAB Ex Parte Appeal Pendency (Months) ^c	RCE Backlog	RCE First-Action Pendency (Months) ^d
2013	584,998	29.1	25,308	26	78,272	7.8
2012	608,283	32.4	26,484	23	95,200	5.9
2011	669,625	33.7	23,963	17	63,487	4.0
2010	708,535	35.3	17,754	12	40,939	2.4
2009	718,835	34.6	12,489	7.7	14,620	2.0

Source: USPTO

^a Green arrow indicates period of sustained decreasing backlog; red arrows indicate period of sustained increasing backlog or pendency.

^b Average number of months between an application's filing and its disposal.

^c Average number of months between PTAB assigning an appeal number and its making a decision.

^d Average number of months between the filing of an RCE and the examiner's initial decision.

The goal of AIA is to allow USPTO to process patent applications faster, reduce the patent backlog, increase patent quality through expedited patent challenges, and improve examiner recruitment and retention. AIA includes fundamental revisions to patent laws and USPTO practices, such as moving to a "first inventor to file" patent process to align the U.S. system with others worldwide, granting the agency authority to set and retain fees to ensure it has sufficient resources for its operations, and establishing satellite offices. The law also introduced new avenues for the public to challenge granted patents and replace previous options deemed inefficient. In September 2013, OIG issued a report¹⁰ on the status of USPTO's efforts to implement the provisions of AIA and found that most were successfully implemented. As of March 26, 2014—more than 2 years since AIA's enactment—USPTO successfully implemented 29 of the 35 provisions they were responsible for on-time; 4 are not yet due, and 2 are overdue.

Ongoing OIG Work

Modernizing IT and managing high-risk contracts at USPTO. As part of our fiscal year 2014 work plan, we are auditing USPTO's IT modernization projects. Our audit objectives are to:

- Assess the impact of IT contract termination decisions made as a result of the \$110 million IT budget reduction, as well as the appropriateness of project funding in the reduced budget environment.

¹⁰DOC OIG, September 30, 2013. *USPTO Successfully Implemented Most Provisions of the America Invents Act, but Several Challenges Remain*, OIG-13-032-A. Washington, DC: DOC OIG.

- Review the progress USPTO has made in implementing the recommendations from OIG’s fiscal year 2011 Patent End-to-End (PE2E) audit¹¹—specifically, the technical progress it has achieved to date, its use of the Agile methodology, and its plans for future PE2E development.
- Assess the project management and technical progress USPTO has made in its development and implementation of the Trademark Next Generation project, including its use of the Agile methodology.

Examining USPTO use of high-risk contracts. We have also initiated an audit of USPTO’s management of T&M/LH contracts, which constitute high risk to the Government.¹² In fiscal year 2013, USPTO obligated approximately \$572 million on contracts for goods and services; our objective is to determine whether its T&M/LH contracts are properly awarded and administered.

Ongoing OIG Investigation

We are looking into the work activities of paralegals in USPTO’s Patent Trial and Appeals Board (PTAB), many of whom were brought on board in anticipation of the hiring of additional administrative law judges. In 2008, USPTO had planned to significantly increase the number of judges in PTAB, in order to help reduce the backlog of appeals being reviewed by the Board. According to USPTO, due to budget reasons, judges were not hired according to plan; in 2013, OIG received a whistleblower complaint alleging that paralegals were not being assigned an adequate workload to occupy a full-time schedule. We referred this matter to USPTO management, which conducted an administrative inquiry and found that—over the 4.5 years from October 2008 to May 2013—approximately \$4 million dollars was billed to non-production time. After completion of USPTO’s inquiry, we subsequently initiated a follow-up analysis and expect to release a public report this later in 2014.

For further details, see Appendix D, “Reducing USPTO Backlogs and Other USPTO Issues.”

MANAGING THE DEPARTMENT’S FINANCES, CONTRACTS, GRANTS, AND OPERATIONS

Department-Wide Oversight

Challenges to the Department’s operational excellence include controls over budgetary resources, procurement, and overall financial management. Departmental leadership is addressing a number of related issues, including (A) the management of appropriated funds, (B) the Department’s and bureaus’ unliquidated obligations, (C) funds spent on conferences, (D) funds spent on premium class travel, (E) modernizing the enterprise financial management system, (F) the Department’s working capital fund, and (G) other obligations, including contracts and grants.

A. Addressing the unauthorized reprogramming of funds. In response to hotline complaints about mismanagement of appropriated funds within NOAA’s National Weather Service (NWS) in 2010 and 2011, the Department conducted a review that highlighted mismanagement of budgetary resources throughout NWS. The Department found significant management, leadership, budget, and financial control problems at NWS. Following the release of the report on its review, the Department identified specific actions for correcting the conditions that led to the report’s findings. The Department also reported related Antideficiency Act violations.

In our September 2013 review¹³ of these actions, we found that the Department and NOAA have taken steps to address the findings identified in the Department’s internal inquiry and completed many action items, but that additional work was needed to complete several key action plan items to ensure proper stewardship of funds and compliance with laws and regulations. Although several actions needed to be finalized or added, the Department has made progress in addressing most of the original action items related to these budget issues. In addition to its existing action plan items, we specifically recommended that the Department document an analysis of NOAA’s financial management leadership that addresses improper past practices and how the current leadership team can provide effective financial management direction. Continued Departmental leadership attention is essential to ensuring a culture of transparency, accountability, and effective oversight.

¹¹ DOC OIG, September 29, 2011. *Patent End-to-End Planning and Oversight Need to Be Strengthened to Reduce Development Risk*, OIG–11–033–A. Washington, DC: DOC OIG.

¹² This audit is part of our risk-based oversight strategy developed to help the Department address management challenges in its acquisition function; for more on high-risk contracts, see “Incurring risk from the use of high-risk contracts” in the “Managing the Department’s Finances, Contracts, Grants, and Operations” section of this testimony.

¹³ DOC OIG, September 13, 2013. *Status of Departmental Actions to Correct National Weather Service Mismanagement of Funds*, OIG–13–029–1. Washington, DC: DOC OIG.

B. Monitoring the Department's obligation balances. Our June 2013 report¹⁴ on the Department's controls over the management and closeout of obligation balances as of December 31, 2011, found inconsistent policies and processes, as well as inadequate monitoring activities. Specifically, we found original obligation balances that could not be verified, accounting records that did not accurately reflect Department obligations, bureaus that did not know the status of its obligations, and improperly liquidated contract obligations.

As a result of our work, we estimated that the amount of unliquidated obligation balances that the Department needed to deobligate was \$159 million as of December 31, 2011. The Department did not have adequate internal controls, policies, and procedures to ensure that bureau obligations were adequately monitored and deobligated when appropriate. To address these challenges, the Department's financial management and acquisitions units agreed to (1) issue joint final guidance on monitoring open obligations to their respective communities and (2) include routine obligation monitoring as a discussion topic during annual finance and acquisition training sessions. The guidance has not yet been finalized.

C. Overseeing conference spending. Since fiscal year 2012, the Department has developed and updated conference-related guidelines. These guidelines pertain to events that either require Office of the Secretary pre-approval or entail the Department or one of its bureaus to represent itself publicly as a host or co-host. The Department must continue to be transparent and responsive in its efforts to avoid conference mismanagement or missteps similar to those resulting in our recent audit report covering conferences hosted by NIST's Manufacturing Extension Partnership (MEP) program.

In response to a congressional request, we audited NIST-MEP conference spending to develop a reasonable cost estimate of the 2012 NIST-MEP annual conference held in Orlando and determine the legitimacy and reasonableness of travel costs for major conferences in fiscal years 2011 and 2012.¹⁵ OIG found that, for conferences held in fiscal years 2011 and 2012, NIST-MEP lacked adequate controls over much of its conference spending. We concluded that a NIST-MEP event planner retained concessions and benefits that could have been used to reduce the fiscal year 2012 conference's \$1.1 million cost—\$700,000 of which was spent by NIST-MEP. We recommended that NIST-MEP make a determination on the recovery of \$148,000 that its event planner collected for sponsorship fees and more than \$88,000 that the planner retained for both registration fees and a concession refund. Similarly, an evening reception, paid for with funds raised through the sale of sponsorships at the same conference, was held in lieu of reducing the overall cost. Further, NIST-MEP agreed to room rates for Government attendees that exceeded allowable maximum conference lodging rates in order to standardize rates for Government and non-government attendees, essentially subsidizing lodging costs to nongovernment attendees.

D. Overseeing premium travel spending. We recently examined fiscal year 2012 information on the Department's total premium-class travel approved for flight time in excess of 14 hours, as well as for medical disability, which totaled nearly \$1.4 million. The difference in cost between premium and coach fares for travel due to flight time in excess of 14 hours was approximately \$540,000, while the cost difference due to medical disability was approximately \$475,000. With the serious fiscal challenges requiring Federal Departments to operate as efficiently as possible, we advised the Department to (1) collect, analyze, and report data on premium-class travel on a periodic basis to the Office of Commerce Services and (2) examine ways to reduce premium travel costs. Additional OIG work in this area of the Department's operations will focus on premium-class travel, specifically on the effectiveness of controls over approving exceptions to premium-class travel restrictions.

E. Updating the enterprise financial management system. The financial control problems at NWS highlight the Department's need to implement stricter control over funds Department-wide. A lack of centralized data systems poses reporting and oversight challenges to the Department, such as effectively reporting financial data and monitoring financial activity across its bureaus.

The Department and most of its bureaus use a financial system developed with aging technology and augmented with in-house software that is increasingly difficult to maintain. This system currently addresses core financial accounting, financial management, grants management, acquisition management, and property management. However, limitations such as high support costs and a lack of system integra-

¹⁴DOC OIG, June 20, 2013. *Monitoring of Department's Obligation Balances Needs Strengthening*, OIG-13-026-A. Washington, DC: DOC OIG.

¹⁵DOC OIG, February 21, 2014. *Manufacturing Extension Partnership Incurred Avoidable Conference Costs*, OIG-14-013-A. Washington, DC: DOC OIG.

tion and lack of centralized reporting capability impede the Department's ability to oversee and manage Department-wide financial activities.

The Department plans to replace these legacy systems—collectively known as the Commerce Business System (CBS)—with Business Application Solutions (BAS), a commercially available system, by fiscal year 2018. The Department requested nearly \$40 million to support BAS implementation activities in fiscal year 2015. While the Department has provided OIG with regular updates on the status of this modernization project, significant challenges remain because (1) the implementation schedule is aggressive; (2) the Census Bureau must be successfully converted prior to the 2020 decennial; (3) BAS will be hosted by a shared-service provider; (4) separate component systems will need to interface with BAS; and (5) adequate funding is needed.

F. Managing the working capital fund. On March 28, 2014, we issued a draft report covering billing control issues related to the Office of the Secretary's working capital fund (WCF). This fund provides 62 services throughout the Department valued at nearly \$150 million annually. Our audit addressed issues on whether the Office of the Secretary's Financial Management Directorate charged customers using the correct billing rates and in accordance with Departmental guidelines. For 10 of the projects reviewed, we found that the Office of the Secretary Financial Management Directorate did not use current billing rates and/or the service providers did not have accurate supporting documentation for amounts charged to the customers. This problem was most noteworthy within the Office of General Counsel. Consequently, the customers receiving services from these projects were not billed correctly. We recommended that the Department require a process for all WCF service providers to capture and retain supporting documentation that accurately reflects the level of services provided to customers, and that the Office General Counsel develop an automated process to track attorney time, by customer and services provided. We provided the Department with our draft results and will issue our final report later in 2014.

G. Administering high-risk contracts and grant awards. In fiscal year 2013, the Department obligated about \$2.3 billion for goods and services that include satellite acquisitions, intellectual property protection, broadband technology opportunities, management of coastal and ocean resources, information technology, and construction and facilities management. Although the Department's spending requirements for goods and services have not diminished, available funding resources likely will remain uncertain. For this reason, the Department must maintain the workforce needed to carry out robust and thorough oversight of contracts to help program management achieve goals, avoid significant overcharges, and curb wasteful spending.¹⁶ Continuing to address high-risk contracts and maintaining a qualified acquisition workforce will enable better management of the Department's day-to-day spending.

OIG also provides oversight of the Department's management of more than 70 programs authorized to award grants or cooperative agreements. Each program has its own rules, regulations, and eligibility requirements. In addition, OIG provides oversight to the National Telecommunications and Information Administration's management of the Department's most significant grant-awarding initiative over the last 5 years, the Broadband Technology Opportunities Program (BTOP). Of the Department's grants programs, BTOP entails the most challenging awardee spending issues.

Incurring risk from the use of high-risk contracts. In July 2009, the Office of Management and Budget's (OMB's) Office of Federal Procurement Policy issued contracting guidance to chief acquisition officers and senior procurement executives. The guidance—stating that time and materials/labor hour (T&M/LH) contracts, cost-reimbursement contracts, and noncompetitive contracting pose special risks of overspending—directed agencies to reduce by at least 10 percent the use of high-risk contracting authorities for new contract actions. For fiscal year 2013, the Department reported that it exceeded its goals in reducing the dollar amount of high-risk contracts, and it continues to track its goal based on OMB's 2009 guidance. However, our audit results indicate that a critical challenge remains in the use of high-risk contracts.

¹⁶The President has acknowledged contract oversight as a Federal Government-wide priority; see The White House, Office of the Press Secretary, March 4, 2009, *Memorandum for the Heads of Executive Departments and Agencies: Government Contracting*.

In a report issued in November 2013,¹⁷ we reported weaknesses in the awarding and administering of T&M/LH contracts. We found that Departmental contracting officers did not award T&M/LH contract actions in accordance with the requirements of the Federal Acquisition Regulation and the *Commerce Acquisition Manual*. T&M/LH contracts are considered high-risk because the contractor's profit is tied to the number of hours worked. We also noted that contract actions in our sample were incorrectly coded in the Federal Procurement Data System (FPDS).

The Department's challenge is to better monitor and evaluate its T&M/LH contracts through the acquisition review board and investment review board processes, which are used to manage the Department's major acquisitions of goods and services. A further challenge it faces is to improve the processes for entering accurate and complete data in FPDS. Effective implementation of the Department's measures will be crucial to ensuring that the Department properly awards, administers, and reports high-risk T&M/LH contracts.

Tightening controls over use of Federal funds by award recipients. Grant oversight requires that recipients of awards meeting certain dollar thresholds submit either a Circular A-133 single audit report or a program-specific audit report. For the period January 1, 2011—December 31, 2013, these programs issued approximately 4,166 awards amounting to \$3.8 billion. We review an average of 350 finding reports a year; of those, about 8 percent will have significant procedural or internal control findings. These types of awards pose particular oversight challenges for the Department. OIG continues to review these audit reports to identify trends in findings across bureau programs, as well as to monitor whether findings are resolved in a timely manner. Twice annually, we provide the Department an analysis of our review's results and post it on our Web site.

Table 2 presents averages of the single audit and program-specific audit reports that OIG reviewed during the period January 1, 2011—December 31, 2013, the number of material findings, and amounts of questioned costs and funds to be put to better use reported. We have noted a problematic indicator in the Economic Development Administration's (EDA's) revolving loan fund program, NTIA's BTOP, and the National Institute of Standards and Technology's (NIST's) Advanced Technology/Technology Innovation Program. It is important that all Departmental program and grants management offices review these findings and implement internal controls to address the root causes of the findings, which may require program or grant operations changes in order to improve grant recipients' compliance with laws and regulations.

¹⁷DOC OIG, November 8, 2013. *The Department's Awarding and Administering of Time-and-Materials and Labor-Hours Contracts Needs Improvements*, OIG-14-001-A. Washington, DC: OIG.

Table 2. Analysis, by Bureau, of OIG-Reviewed Single Audit Reports: Annual Average (from January 1, 2011, Through December 31, 2013)^a

Bureau	Reports Reviewed	Reports with Material Findings ^b	Material Findings	Questioned Costs ^c	Funds Put to Better Use ^d
EDA	103	8	23	1,288	1,990
NOAA	45	4	14	2,277	0
NTIA	52	6	22	2,363	0
NIST	78	11	25	1,057	96
Other ^e	72	0	0	0	0
TOTAL	350	29	84	6,985	2,086

Source: OIG

^a The table does not include less significant procedural or internal control findings, the resolution of which OIG does not monitor; ^b *material findings* are those with questioned costs greater than or equal to \$10,000 and/or significant nonfinancial findings; ^c *questioned costs*, shown here in thousands of dollars, are subject to change during the audit resolution/appeal process; ^d *funds to be put to better use*, shown here in thousands of dollars, are subject to change during the audit resolution/appeal processes; ^e *other* includes the International Trade Administration (ITA), the Minority Business Development Agency (MBDA), and *multiple*, which are single audit reviewed programs from more than one bureau.

To improve controls over award recipients' use of Federal funds, bureaus need to review these single audit and program-specific audit reports and take action on the report findings.

Ongoing OIG investigation into NOAA grants. As a result of a whistleblower's disclosures to OIG, we are currently looking into grants issued by NOAA to nine National Estuarine Research Reserve System (NERRS) facilities for approximately \$1 million. In January 2013, Congress appropriated \$7 million to NOAA "to repair and replace ocean observing and coastal monitoring assets damaged by Hurricane Sandy." The whistleblower, whose identity is being protected by OIG, alleged that a NERRS facility applied for and was awarded grant funds even though their equipment was not damaged by Hurricane Sandy, as required under the law. Our public report will be released in 2014.

Agency Oversight

Managing Broadband Technology Opportunities Program (STOP) award closeouts. With approximately \$3.9 billion in grant awards, the Recovery Act-funded BTOP represents the Department's largest grant program over the last 5 years. Of the Department's grants programs, BTOP entails the most challenging awardee spending issues.

As of March 17, 2014, about 15 percent of BTOP funds remain to be disbursed—and only 21 of 224 projects had been closed, with another 174 in the closeout process and 29 (representing about \$900 million in awards) remaining active. Some of these awards have been extended to September 30, 2015. Management must remain

committed to monitoring BTOP recipient compliance with grant award terms and achievement of intended benefits as the program nears completion.

Addressing concerns with BTOP grants' closeout process. The audit closeout process¹⁸ calls for particular attention. OIG's December 20, 2013, report¹⁹ identified that BTOP's award closeout process (a) is taking longer than expected, particularly with infrastructure projects and (b) could be improved by strengthening closeout policies and procedures and ensuring the consistent implementation of those policies and procedures in place. NTIA and the grants offices (NOAA and NIST) supporting NTIA in the implementation of BTOP have taken or are in the process of taking to strengthen the closeout process.

Answering congressional questions about a BTOP awardee. Recently completed and ongoing audit work has indicated the need for continued management attention to awards that remain open and significant issues that they entail. On May 9, 2013, we received a request from the House to review a \$100.6 million grant that BTOP awarded to EAGLE-Net Alliance (ENA). In responding to questions relating to the grant in a January 23, 2014, letter, our review found that the revised project will involve additional miles of constructed and leased fiber, with some of the completed fiber being laid in proximity to existing fiber. In addition, we found that two-thirds of the grant funds had been spent before NTIA addressed problems that led to suspension of the award in December 2012. Further, ENA faces challenges that include the project's ability to fully achieve the award's intended results (e.g., connections will be achieved with only 131 of 223 intended community institutions) and continued internal control issues.

Examining issues with BTOP equipment acquisitions. Previous OIG oversight identified BTOP equipment (e.g., fiber, base tower stations, switches, microwave radio equipment) as a concern. As a result, we initiated a review with objectives to determine whether NTIA has the personnel and processes in place to monitor grantees' equipment acquisitions and assess whether grantees have appropriately acquired, tested and implemented the most effective equipment. As part of this review, we performed site visits of six recipients of BTOP awards for deploying broadband. On March 24, 2014, we issued a draft report to NTIA that credits the agency with establishing processes to monitor recipient's implementation of awards—but identifies weaknesses in grantee acquisition and implementation of equipment and recommends steps to improve NTIA's oversight controls.

Supporting International Trade Administration (ITA) export programs under a new organizational structure. Promotion of U.S. exports is a critical mission of the Department. For fiscal year 2015, the Department has requested \$497 million to support export promotion and regulation. ITA's U.S. and Foreign Commercial Service, within the Global Markets business unit, provides a broad range of services and counseling to U.S. exporters; other ITA business units—such as Enforcement and Compliance, as well as Industry and Analysis—enforce trade agreements and protect domestic industries such as manufacturing and textiles.

ITA's challenge is to complete its internal reorganization. Effective October 1, 2013, the Department consolidated ITA's four existing business units into three to eliminate overlapping functions and streamline operations. ITA states that the functional realignment will consolidate regional expertise, strengthen industry expertise and strategic partnerships, and consolidate trade agreement compliance and trade law enforcement. In February 2014, we initiated an audit of ITA's consolidation to evaluate its progress, assess whether any cost savings have been realized, and identify any remaining challenges to this effort.

Reforming Bureau of Industry and Security (BIS) export control. The United States' export control system is distributed among several different licensing and enforcement agencies. Within the Department of Commerce, the Bureau of Industry and Security (BIS) administers and enforces the Export Administration Regulations, which apply to controlled dual-use items and technology. These regulations serve to support and advance the national security, foreign policy, nonproliferation, and short supply interests of the United States. BIS' two primary functions, licensing and enforcement, are handled by Export Administration and Export Enforcement, respectively.

The Export Control Reform (ECR) Initiative, launched in April 2010, is a three-phase effort to streamline the Nation's export control system by consolidating the export control efforts of multiple Federal agencies. As part of the export control re-

¹⁸This process entails the award recipient and the grants office ensuring that project activity is complete and the award recipient has met all the requirements under applicable laws, regulations, OMB circulars, and award terms and conditions.

¹⁹DOC OIG, December 20, 2013. *Closeout Procedures for the Broadband Technology Opportunities Program Need Strengthening*, OIG-14-010-A. Washington, DC: OIG.

form, BIS has begun assuming increased licensing and enforcement responsibilities for former munitions items that have moved under Department of Commerce jurisdiction. The challenge for BIS will be to ensure that it has adequate licensing and enforcement resources to handle its new responsibilities.

In May 2013 we initiated an audit in response to a congressional request and as part of our annual audit plan. Our objectives were to (1) review the adequacy of BIS' program plans and budget requests to address the increased workloads for licensing, outreach, and enforcement activities in fiscal years 2014 through 2016 and (2) evaluate existing BIS licensing, outreach, and enforcement activities and identify any areas for increased efficiencies. We focused our analysis on areas of BIS most affected by ECR—namely its licensing divisions, outreach office, and enforcement offices (excluding antiboycott compliance).

On March 19, 2014, as a result of our fieldwork—and in response to a whistleblower complaint—we issued a memorandum to the BIS Under Secretary and the Department of Commerce's Chief Information Officer expressing our concerns with BIS' compliance with the Presidential directive to consolidate its export licensing system with the Department of Defense's U.S. Export Systems (USXPORTS) automation initiative. The Department of Commerce, in response to our memorandum, scheduled a May 1, 2014, Commerce IT Review Board meeting to discuss the status of BIS migration.

Addressing issues with NOAA satellite accounting. Over the past 3 fiscal years, the accounting firm KPMG noted several significant control weaknesses at NOAA related to accounting for satellites. Specifically, KPMG identified that NOAA in fiscal year 2013 incorrectly classified a satellite instrument not operational at year end as completed property. This error resulted in a \$125 million adjustment to correct property values originally recorded by NOAA. In addition, NOAA capitalized all costs associated with JPSS without review to ensure that only capitalizable costs are included in construction work-in-progress. Further, KPMG identified that NOAA did not receive and review the supporting documentation for \$182.6 million in costs included in intragovernmental payments.

Managing NOAA real property leases. Senate Appropriations Committee Report 113–078, related to the fiscal year 2014 budget, stated that NOAA (a) has a large inventory of real property commercial leases being held over beyond their agreed occupancy and (b) had hundreds of real property leases expiring over the next 4 years that will likely go into holdover, unless NOAA took action. Regarding these issues, we collected information on over 2,500 real property leases from NOAA's inventory valued at over \$166 million. As of February 2014, NOAA had 122 properties with nearly \$2 million in annual rent in holdover status. This represents a 31 percent reduction from the 177 lease holdovers NOAA reported in August 2012. NOAA must continue to address each of its existing holdover leases—and look ahead to those about to expire to ensure that these numbers do not rise.

STRENGTHENING FIRST RESPONDER NETWORK AUTHORITY (FIRSTNET) TO SUPPORT
ECONOMIC GROWTH

Overseeing the First Responder Network Authority and the Implementation of the Nationwide Public Safety Broadband Network

The Middle Class Tax Relief and Job Creation Act (The Act), signed by the President on February 22, 2012, included language that allocated some existing public safety radio frequency spectrum—along with the “D-Block” spectrum—and authorized \$7 billion in funding for the establishment of an interoperable Nationwide Public Safety Broadband Network (NPSBN). To oversee the existing public-safety spectrum and deployment of the NPSBN, the law requires the establishment of an independent authority within NTIA called First Responder Network Authority (FirstNet).

FirstNet faces several challenges as it works toward providing emergency responders with a high-speed network dedicated to public safety. The initial challenge to FirstNet is establishing an organizational structure with strong internal controls. Building an effective organization will be essential to meet the subsequent challenges it faces in establishing the NPSBN. Those include:

—*Fostering cooperation among various State and local public safety agencies.*

Committing iterative effort to effective outreach and forging cooperation will be essential to building the NPSBN and obtaining participation from the public safety personnel the network is designed to serve.

—*Integrating existing STOP grants into the NPSBN.* FirstNet should use four previously funded BTOF public safety wireless projects²⁰ as an opportunity to learn about telecommunications network equipment, best practices for NPSBN deployment, and other issues.

—*Creating a nationwide long-term evolution network.* The limited funds available to implement a nationwide network that meets public safety grade standards will make implementation of NPSBN a challenge, particularly in geographic areas that are not profitable for commercial provider operations. To ensure a cost-effective NPSBN implementation, FirstNet must identify existing assets through coordination efforts.

FirstNet held its first meeting in September 2012 and has since made certain key hires; established a headquarters in the Washington, DC, area; and awarded three contracts for technical support and one contract for general program management and acquisition support.

Ongoing FirstNet Oversight

In October 2013, the FirstNet board requested that OIG take over the review of certain allegations concerning the board's procurements and potential conflicts of interest. We initiated an audit in November 2013 with the objectives of assessing (1) the rationale used to support the decision for selecting time and material and sole-source contract types for the three contracts with a total ceiling price of \$14,350,000; (2) whether those contracts were fairly awarded and appropriately administered; (3) whether the services purchased under those contracts met industry standards, and were consistent with the needs of the project; and (4) FirstNet's process of reviewing ethics-related matters as they pertain to the board, as well as any associated ethical determinations. We expect to issue our report later in 2014. We are also following up on any specific issues relating to our audit.

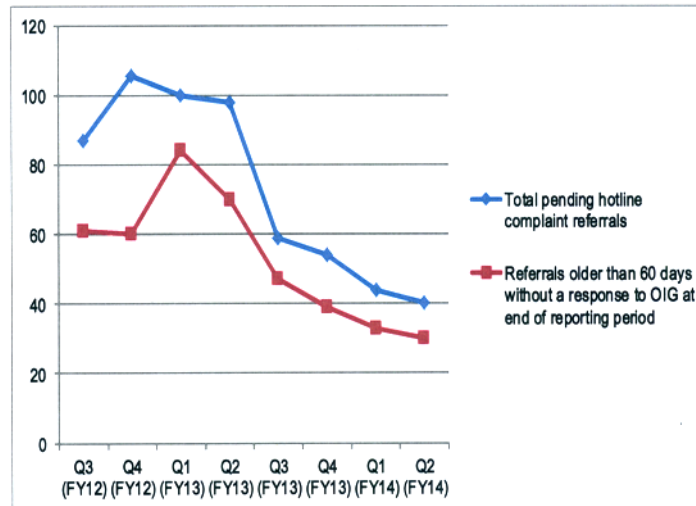
The subcommittee should be aware that, since FirstNet is not funded through appropriations, the Department, responding to OIG's request, agreed that OIG would submit a request to FirstNet for oversight funding, which we did in September 2013. While we are yet to receive any funding—and the details of the transfer have not been finalized—we now understand that FirstNet intends to transfer funding sufficient for 3 full-time equivalents to OIG for the balance of fiscal year 2014. Without funding in First Net's authorizing legislation, OIG will be required to make annual requests for funding from FirstNet.

RESOLVING ETHICS AND COMPLIANCE ISSUES RAISED BY WHISTLEBLOWERS

Over the past year, the Department has made progress in dealing with issues raised by whistleblowers over OIG's hotline. In addition to allegations of fraud and serious misconduct which we investigate, OIG often receives complaints from employees and members of the public raising ethics, compliance, or management issues; we provide these complaints to operating unit leadership to address and resolve. This program ensures that information about potential risks received over our hotline is communicated promptly to operating unit management, so that they may quickly address problems. In some cases, OIG asks that operating units respond and summarize their findings, to ensure that management has sufficiently addressed the matter.

In fiscal year 2013, OIG received almost 1,300 contacts over our hotline, of which about 600 were whistleblower complaints related to the Department's programs and operations. Since the beginning of fiscal year 2013, operating units have worked effectively to resolve issues provided to them on OIG hotline complaints, reducing by more than half what had become a major backlog in early fiscal year 2013. As of the end of the second quarter of fiscal year 2014, the Department had only 40 hotline complaints for which OIG was awaiting an initial findings report—compared to 98 pending only 1 year prior (see figure 2).

²⁰Before the creation of FirstNet, NTIA made approximately \$382 million in grant awards to seven public safety projects to deploy public safety wireless broadband networks. On May 11, 2012, NTIA partially suspended these seven public safety projects. Subsequent negotiations were held to determine whether they would be beneficial to FirstNet; as a result, FirstNet established spectrum lease agreements with four of the seven public safety BTOF projects.

Figure 2. Complaint Referrals to Bureaus Awaiting Initial Response

Source: OIG data

As a result of the Department and operating units prioritizing and addressing OIG hotline referrals, several issues have been resolved, resulting in better management practices and administrative remedies. In fact, of the hotline referrals resolved in fiscal year 2013, the Department's leadership found about one in four contained issues that were substantiated in their management inquiries. Even in cases where inquiries did not find issues, the process of looking into issues often helps communicate to staff that compliance and ethics issues are taken seriously. Examples of successfully resolved issues from OIG hotline referrals include the following:

- In early fiscal year 2013, OIG referred a whistleblower complaint to NTIA, which confirmed that a BTOP grantee had not paid employees appropriate wages as mandated by the Davis-Bacon Act. NTIA informed the grantee of the issue, and appropriate action was taken to remunerate employees as required by the law.
- In late 2011, OIG received a whistleblower's hotline complaint alleging that a Census Bureau employee was publishing political opinions while on duty. Census looked into the issues and, with additional support from OIG, uncovered evidence demonstrating that the employee had used Twitter to publish political opinions while at work. In 2012, we referred our file to Office of Special Counsel (OSC), which has the authority to look into Hatch Act violations. In February 2014, OSC issued a press release announcing that it had confirmed the allegations, and was concluding its investigation. The employee resigned prior to OSC concluding its case.
- In mid-2013, as the result of a whistleblower tip to OIG's hotline, USPTO confirmed that an employee had been improperly claiming work time and overtime while on vacation in a foreign country. During the course of its inquiry, USPTO discovered that the employee had provided username and password information to a second USPTO employee, who logged into his account and submitted previously-completed work while on leave. This gave management the impression that the employee was working while actually on vacation. Administrative action is pending against both.

While the Office of the Secretary and most operating units have made progress handling OIG hotline complaints, NOAA still faces challenges in this area. Leadership needs to give more timely attention to resolving recommendations made at the conclusion of OIG investigations and its own management reviews. When OIG or management substantiates allegations, we frequently transmit to program management our concluding report—which may be accompanied by recommendations to

take appropriate administrative, disciplinary, or other policy actions. Departmental policy requires operating units to respond to OIG within 60 days of receiving our report to inform us of any actions that have been taken or that are planned. Improved coordination among the Department's Office of General Counsel, operating unit leadership, and human resources offices would help ensure that appropriate action is executed in a timely manner.

NOAA, however, currently has five pending OIG investigations that it has yet to take adequate action on, including two cases where senior scientists used Government computers to view inappropriate online content. Four of these five investigations were transmitted to NOAA more than 180 days ago, including two that remain older than 1 year without any action. In order for NOAA to comply with Departmental policies and foster a culture of management accountability, leadership must more diligently resolve OIG's investigative recommendations.

APPENDIX A: ADDRESSING ISSUES WITH NOAA WEATHER SATELLITE PROGRAMS

Managing risks in the acquisition and development of the next generation of environmental satellites is a continuing challenge for the Department. In February 2013, GAO added "Mitigating Gaps in Weather Satellite Data" to its high-risk list.²¹ The two most prominent programs,²² the Joint Polar Satellite System (JPSS) and the Geostationary Operational Environmental Satellite-R Series (GOES-R), together account for one-third of NOAA's fiscal year 2015 budget request. They are also the largest investments in the Department, accounting for more than 20 percent of the Department's \$8.8 billion budget proposal.

NOAA's JPSS and GOES-R satellites will provide data and imagery for weather forecasting—including severe-storm tracking and alerting—and the study of climate change—and help lead and sustain the Nation during severe weather events. However, because of cost overruns, schedule delays, and the aging of NOAA's current constellation of satellites, NOAA has had to take steps to mitigate potential coverage gaps for these critical assets.

JPSS evolved from a predecessor program fraught with cost overruns and schedule delays. NOAA's JPSS program uses the National Aeronautics and Space Administration (NASA) as its acquisition agent, leveraging that agency's procurement and systems engineering expertise—an arrangement based on previous partnerships between the two agencies. In its fiscal year 2015 budget submission, NOAA requested \$916.3 million and reported that the JPSS program, running through 2025, would cost \$11.3 billion. The first JPSS-developed satellite (JPSS-1) is scheduled for launch no later than the second quarter of fiscal year 2017. GOES-R, with scope and importance comparable to JPSS, experienced development and budgetary challenges that could delay the launch readiness date of its first satellite from the first to the second quarter of fiscal year 2016. NOAA requested \$980.8 million for fiscal year 2015 for the GOES-R series of satellites that will provide uninterrupted short-range severe weather warning and "now-casting" capabilities through 2036. With four satellites (the GOES-R, -S, -T, and -U), the program is estimated to cost \$10.8 billion over the course of its life cycle.

JPSS

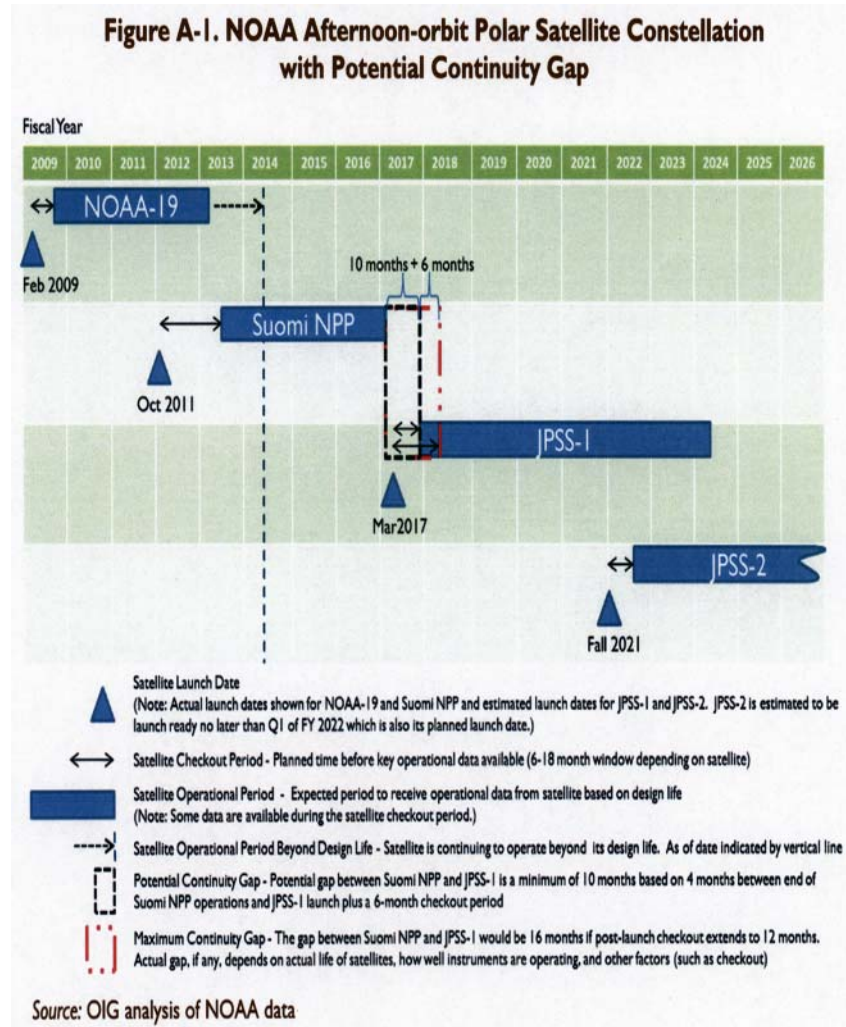
In November 2013, NOAA's independent review recommended that NOAA's polar satellite launch policy be changed so that two satellite failures must occur in order for a gap in data to be realized. It recommended that NOAA promptly start a "gap filler" mission—likely a smaller satellite with key instruments—to provide additional fault tolerance to the JPSS constellation. Further, it recommended that NOAA immediately procure additional satellites to extend the JPSS constellation beyond JPSS-2, which would protect against future gaps and make current development more robust and efficient by providing needed spare parts and flexibility in fabrication and testing.

NOAA has begun to mitigate potential degradation to weather forecasting capabilities during polar-orbit data coverage gaps through the use of supplemental funding it received as part of the Disaster Relief Appropriations Act, 2013. NOAA should ensure that its gap mitigation plan is executed before the November 2016 design-life end of Suomi National Polar-orbiting Partnership (NPP), a risk-reduction satellite launched in October 2011 that is flying the first versions of JPSS sensors.

²¹ U.S. General Accountability Office, February 2013. *High-Risk Series: An Update*, GAO-13-283. Washington, DC: GAO, 155-160.

²² Other satellite acquisitions include Jason-3, which will measure sea surface height, and Deep Space Climate Observatory, which will provide advance warnings of solar storms affecting Earth.

Consistent with our September 2012 JPSS audit report,²³ we continue to project a potential 10–16-month gap between Suomi NPP’s end of design life and when JPSS–1 satellite data become available for operational use (see figure A–1). NOAA’s medium-range weather forecasting (3–7 days) could be degraded during the period of time JPSS data are unavailable.

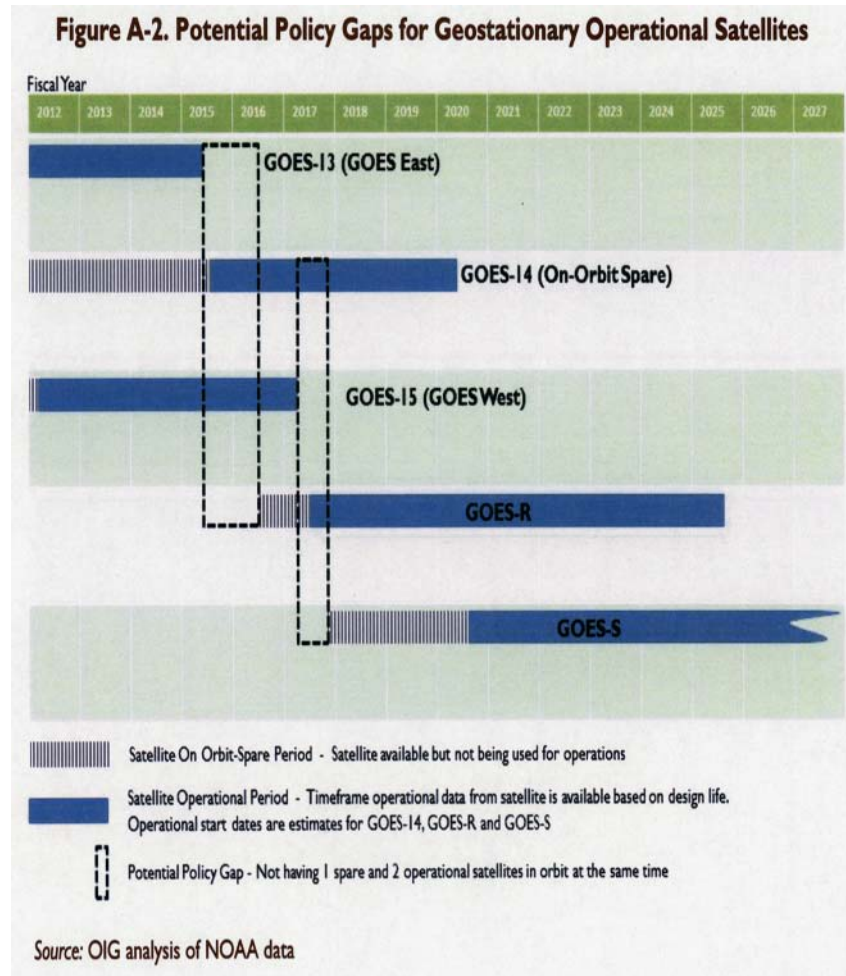


GOES-R

NOAA’s policy for its geostationary satellites is to have three satellites in orbit—two operational satellites with overlapping coverage and one spare for backup. Currently, GOES–13, GOES–14, and GOES–15 are in orbit (see figure A–2). However, GOES–13 is due to be retired in fiscal year 2015, at which time GOES–14 is projected to become operational. GOES–15 is due to be retired in fiscal year 2017.

²³ U.S. Department of Commerce Office of Inspector General, September 27, 2012. *Audit of the Joint Polar Satellite System: Continuing Progress in Establishing Capabilities, Schedules, and Costs Is Needed to Mitigate Data Gaps*, OIG–12–038–A. Washington, DC: Department of Commerce OIG.

GOES-R is scheduled to be launched in October 2015, but there is a risk of launch delay. NOAA may not be able to meet its policy of having an on-orbit spare, even without a GOES-R launch delay, based on current GOES satellites' projected retirement dates. Furthermore, a launch delay for GOES-R beyond October 2015 increases the risk that only one geostationary imager will be in orbit—which would severely limit NOAA's capability to visualize and track severe weather events.



APPENDIX B: MANAGING THE CENSUS BUREAU'S 2020 DECENNIAL PLANNING

2020 Decennial

Through our ongoing work on the Census Bureau's approach to and progress on planning for 2020 decennial census we have identified three time-sensitive Bureau management priorities:

- Completing timely research for making evidence-based design decisions.
 - Integrating schedule and budget to provide valid, timely, accurate, and auditable performance information on which to base project management decisions.
 - Accurately recording costs in the accounting system.
- Completing timely research for making evidence-based design decisions.* To reduce 2020 Census costs, the Bureau is conducting research that focuses on several design

features. Conducting research and testing is necessary to implement the changes needed to save the Government hundreds of millions of dollars (see table B-1).

Table B-1. Costly 2010 Census Operations and 2020 Research Efforts to Address Them

2010 Census Cost and Operation		2020 Research Aimed to Reduce Costs
\$2 billion	Enumerating nonresponding households	Can the number of household visits be reduced by finding an alternative, less costly response option? Can existing government records fill in missing information?
\$790 million	Building a one-time-use field data collection automation system	Can reusable enterprise-wide solutions be built and expanded to meet decennial needs?
\$473 million	Ensuring that labor, systems, and development are in place to process and capture the data for more than 164 million paper questionnaires at three data centers	Can the number of paper questionnaires be reduced through an Internet response option? Can an automated field data collection reduce the paper workload? Can the reduced paper workload result in fewer data capture centers?
\$444 million	Having an end-of-decade address and geography updating operation	Can Census maps and addresses be efficiently updated throughout the decade, with areas experiencing change accurately targeted to reduce the amount of end-of-decade canvassing?
\$330 million	Leasing 494 local and 12 regional Census offices	Can distance management, training, and automated processes allow the Census Bureau to reduce the number of temporary Census offices?

Source: OIG analysis of Census Bureau documents

Integrating schedule and budget to provide valid, timely, accurate, and auditable performance information on which to base project management decisions. Last decade, OIG recommended that the Census Bureau integrate cost and schedule. In response, the Bureau planned to incorporate earned value management (EVM), a process that combines measures of a project's schedule and cost to forecast performance problems. As of March 2014, the Bureau had not incorporated EVM into its activity schedules. Because of the Bureau's budget and time constraints, management must be able to recognize at-risk projects by adopting EVM to make sound project management decisions.

Accurately recording costs in the accounting system. To effectively manage a program of the size, complexity, and cost of the 2020 Census—and assess the return on investment of research efforts—managers require accurate accounting records. However, we recently found that many Census Bureau staff stated that they are charging to projects based on budgeted hours rather than actual hours worked. Inadequate accounting for an employee's actual work and level of effort required in accomplishing project goals, as well as inaccurate project costs, hinder the Bureau's

ability to assess the return on investment of research efforts. Additionally, these issues affect the Bureau's ability to make informed decisions about how to accomplish budget reductions.

APPENDIX C: ENHANCING DEPARTMENTAL CYBERSECURITY

Cyber Incident Response

During the past year, the Department has made improvements to incident detection and response capabilities at DOC CIRT. For example, the Department conducted an internal assessment of DOC CIRT policies, procedures, and capabilities. It focused on strengthening DOC CIRT's organizational structure; its roles and responsibilities; and operating unit procedures for incident identification, analysis, response, and reporting. The Department's chief information officer has also (a) taken steps to ensure that all DOC CIRT staff meet Department training and certification requirements and (b) implemented an incident tracking system. In addition, the Department arranged to have the Department of Homeland Security conduct an independent assessment, focusing on incident management capabilities within the Department of Commerce.

Enterprise Cybersecurity Initiatives

Table C-1, below, provides the goal, along with updated implementation status and issues, for each initiative since we issued the fiscal year 2014 *TMC* report:

Table C-1. Department's Enterprise Cybersecurity Initiatives

Enterprise Initiatives	Initiative Goal	Implementation Status	Issues
ECMO	Provide nearly real-time security status, support for patch management, and remediation of software configuration issues for Department-wide system components	<ul style="list-style-type: none"> Initial capability has been implemented on more than 32,000 system components (e.g., desktops, laptops, and servers) across HCHB operating units. Upon full deployment in September 2014, ECMO will support more than 100,000 system components throughout the Department. 	Delays in implementation by several bureaus may result in missing the September 2014 deadline.
ESOC	Provide Department-wide security situational awareness to senior Departmental and operating unit managers	<p>Currently in the planning stage, the Department has</p> <ul style="list-style-type: none"> Completed detailed assessments of incident handling capabilities in HCHB and NOAA, and a high-level assessment across the Department. Concluded a technical capabilities study that resulted in an initial and final operating ESOC architecture, along with recommendations for achieving both. Selected NOAA's Fairmont, WV, facility to house ESOC. 	The initiative faces challenges acquiring project resources beyond FY 2015.
TIC	Consolidate Department external network connections and provide better monitoring of cyber threats from the Internet	<ul style="list-style-type: none"> All bureaus—except the Bureau of Industry and Security (BIS), the Census Bureau, and NOAA—have acquired a TIC service. BIS will acquire TIC services by May 2014. Census has not implemented TIC because of concerns about third-party access to sensitive Title 13²⁴ data. NOAA has made progress becoming its own TIC access provider (TICAP) by March 2015. OCIO is encouraging NOAA to meet TICAP requirements sooner. 	<p>BIS is working with its selected service provider to resolve technical issues.</p> <p>Census and the Department of Homeland Security have developed an amendment to a Department of Commerce memorandum of understanding to ensure that the confidentiality of Title 13 data is protected.</p>

Source: Department of Commerce

NOAA continues to make progress toward becoming its own TIC provider and the Census Bureau and BIS have made notable progress toward acquiring TIC services. The TIC initiative should significantly reduce the risks associated with external net-

²⁴Title 13 guarantees the confidentiality of information obtained by the Census Bureau and establishes penalties for disclosing this information.

work and Internet connections. Accordingly, the Department has encouraged NOAA to complete its TIC implementation quickly.

APPENDIX D: REDUCING USPTO BACKLOGS

Reducing Patent Application Backlogs

USPTO, as the authority for reviewing and adjudicating all patent and trademark applications, must continue to focus on the challenge of reducing the time applicants wait before their patent applications or appeals are reviewed. The agency's recent efforts to address its application and appeal backlogs and related pendency issues have yielded mixed results. Both the backlog and pendency for patent applications decreased in fiscal year 2013 (see figure D-1a). Between October 2009 and September 2013, the patent backlog decreased from approximately 720,000 unexamined new applications to approximately 585,000. Since we issued the fiscal year 2014 *TMC* report in November 2013, the new application backlog has increased to 604,700 (as of February 2014). The patent appeals backlog—which we reported on in our 2012 audit²⁵—has begun to slowly decrease and, as of November 2013, stands at approximately 25,000, still almost twice the size of the backlog in October 2010.

However, USPTO's backlog for requests for continued examination (RCE) has experienced the most variability, growing from 17,800 applications in October 2009 to approximately 78,000 in September 2013 (see figure D-1b), an increase of more than 340 percent. As a consequence, during the same period, the average waiting time between filing an RCE and receiving an initial decision has grown from 2.1 to 7.8 months (see figure D-1b). From the beginning of the fiscal year until February 2014, the RCE pendency has decreased to 6.9 months, but the RCE backlog still hovers near 80,000. By law,²⁶ USPTO must provide a patent term adjustment²⁷ for an issued patent when it takes USPTO more than 4 months to issue a preliminary RCE determination.

²⁵ U.S. Department of Commerce Office of Inspector General, August 10, 2012. *USPTO's Other Backlog: Past Problems and Risks Ahead for the Board of Patent Appeals and Interferences*, OIG-12-032-A. Washington, DC: DOC OIG.

²⁶ 35 U.S.C. § 154(b)(1).

²⁷ A *patent term adjustment* legally requires USPTO to extend the 20-year patent term because of agency delays, subject to limitations.

Figures D-1a and D-1b. Patent Backlog and Pendency Decreases (a) and RCE Backlog and Pendency Increases (b) Through February 2014

Figure D-1a

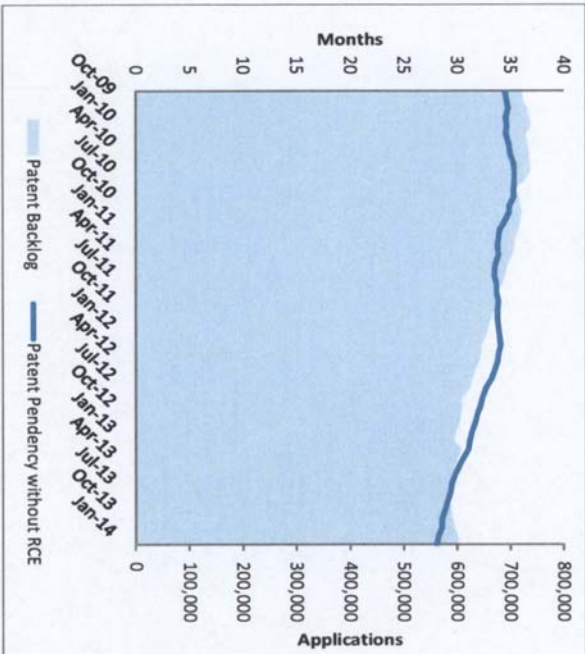
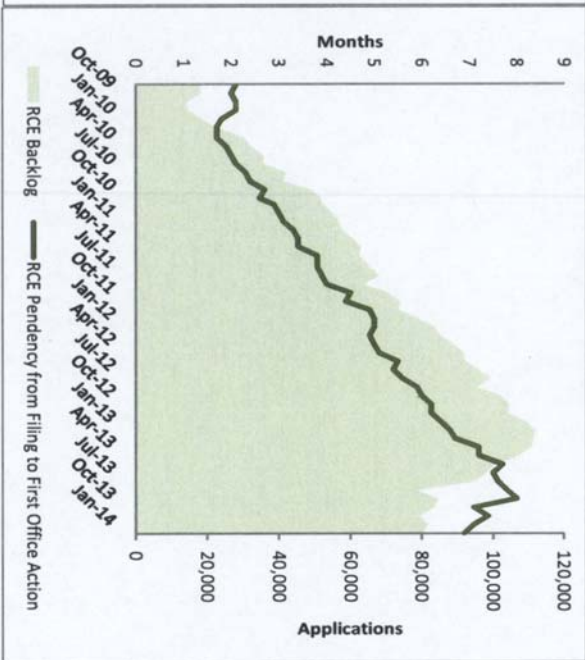


Figure D-1b



Source: USPTO data

To address the substantial increases in the RCE backlog and average waiting time, USPTO (a) initiated outreach efforts to identify why applicants file RCEs and (b) implemented policy changes in April 2013 and October 2013. These policy changes affected the amount of credit examiners received for reviewing RCEs, as well as the docketing procedures. Our current audit, initiated in June 2013, examines the causes for this backlog and assesses USPTO's efforts to remedy it. We anticipate issuing a final report with our findings and recommendations in late spring 2014.

As it works to reduce its patent backlog and pendency (see figure D-1a), USPTO's challenge is to ensure that the quality of its patent examination process is not adversely affected and to avoid requiring applicants and the public to file unnecessary and costly challenges to examiners' decisions.

Senator MIKULSKI. Well, Madam Secretary, thank you for that testimony.

WEATHER SATELLITES

I would bring everyone's attention to the Department of Commerce's strategic plan. We actually have one called "Open for Business," how the Secretary is cutting across a variety of her agencies to generate jobs.

But, Madam Secretary, 62 percent of the Department of Commerce budget lies in NOAA.

Secretary PRITZKER. Yes.

NOAA SATELLITE

Senator MIKULSKI. And that 62 percent in NOAA really goes primarily to satellites, and it also goes to Weather Service. Many of the questions here, however, will be related to fisheries management, which is one of the issues that frequently comes up from this coalition of coastal Senators.

But my question will go exactly to the satellite questions raised by Senator Shelby and strongly felt by myself.

As you know, there was an independent review about closing or eliminating the weather gap, also of great concern to Senator Murkowski because of the way the satellites work, what it does for Alaska, what it does for us in the world.

When will we get your comprehensive plan, and how do you see that you want to continue to right the concerns that have been addressed in both the Inspector General's report and in that independent review commissioned by this commission, so we get a dollar's worth of value for our satellites?

Secretary PRITZKER. Well, thank you all for your support of the satellite programs. They're extremely important; and, as you are aware, satellite procurement is a very complex process. It really involves procuring instruments, procuring a bus, procuring a launch vehicle, and procuring a ground station, and getting all of that to occur at the same time.

So the NOAA satellites program have been recently, through the outside report that we received, well managed and are on time and on budget as we speak today, and these are obviously, as I said in my testimony, critical assets to provide accurate information to decision-makers.

As we address the issue, the challenge of the gap that was discussed, first of all I want to thank you for taking the most important and first step of funding the instruments that can be used for a gap filler, because that is an essential step, a critical step in the

procurement process, as I described. We need to make sure those are procured first.

As we look at the gap right now, the potential for a gap is still too high. So our approach to addressing this is to first, as it relates to JPSS-1, is to make sure that it is on schedule, which it is. And what we're trying to do now is to move JPSS-2 so that there's greater overlap with the JPSS-1 program.

To do that, we need to have the procurement of, as I said, the instruments, the bus, the ground system, and the launch to all occur.

Senator MIKULSKI. Well, Madam Secretary, I'm going to jump in because we all each are going to follow the 5-minute rule.

Secretary PRITZKER. Sure.

Senator MIKULSKI. I'm going to get in as many of my colleagues as I can.

As I understand it, you are standing really sentry over this.

Secretary PRITZKER. Yes.

Senator MIKULSKI. We expect also a further cost estimate later in April. Am I correct in that?

Secretary PRITZKER. I'm not sure of the exact timing, but we will get you that cost estimate—

Senator MIKULSKI. We understand NOAA says they're actively working on a plan to be issued with the latest independent cost estimates as late as April 2014. We need that—

Secretary PRITZKER. Yes.

[The information follows:]

NOAA is currently examining options for what comes after JPSS 2. As we develop these options, we will work with the Committee on the best way forward.

Senator MIKULSKI [continuing]. As we get ready to—and let me finish. The other thing is I want to just thank you in terms of your personal involvement, and also Dr. Kathy Sullivan, the new CEO of NOAA.

First of all, I've heard from my other colleagues her availability to discuss issues, particularly these prickly fisheries issues. So we want to thank the fact that we feel communication has improved with NOAA. We feel that the oversight on satellites and some other programs have improved with NOAA. We want to keep that momentum going to get value for our dollar, and at the same time this communication, we resolve problems without trying to put it in report language.

So I can't tell you how important it is. If you listen to our fishermen and our watermen, if they're cranky, then literally these fishermen put their hooks into us.

And I don't want to be caught in a cranky waterman's net in Maryland. So I think we all get that.

I could pursue my questions because I'm going to come back to the Weather Service.

I want to also advise my colleagues that we will be having a separate hearing on NIST in May because of the crucial issues of manufacturing to cyber security, an innovative hearing.

Senator Shelby.

Senator SHELBY. Thank you, Madam Chairman.

PRIORITIZATION WITHIN NOAA

Secretary Pritzker, the Department has invested billions of dollars in next-generation weather satellites to provide critical data for forecasting and storm monitoring. We think that's important. And while the importance of these satellites cannot be overstated, NOAA also conducts a host of other important activities critical to our Nation's fisheries and coastal shorelines.

With existing satellite programs consuming more than a third of NOAA's budget proposal, I believe—and I mentioned it in my opening statement—that prioritization of mission-critical activities is very important. You've got so much money, you've got to decide where are the priorities. You did it in business, where you were very successful.

Secretary PRITZKER. Right.

Senator SHELBY. Are mission-critical activities, Madam Secretary, such as fisheries management or marine research deteriorating due to an insatiable appetite for new satellites that may not be critical to NOAA's core mission? Some of us believe that. Do you have any comment?

Secretary PRITZKER. Yes, I do, Senator. First of all, the way that we approach the NOAA budget is to really try and balance among a number of issues. We're trying to balance between the oceans and the atmosphere, between how much research we do internally, how much gets done externally, and between the short term, the medium term, and the long term, so that we can try and arrive at—for our dollar, that we're getting the most value trying to address all of the issues that NOAA is responsible for.

So it is a balancing act that we undertake, as you pointed out, and one that we do our best to try and make sure that we have sufficient funds to do all the things that NOAA is asked to do.

Senator SHELBY. But the fisheries are not just in our individual States, but they're important to all of Americans, are they not?

Secretary PRITZKER. Absolutely. Our fisheries, as you're well aware, are both a source of commercial endeavor as well as recreational endeavor, and have significant economic impact—both do—on the country's GDP. And I've come as Secretary to really respect and appreciate the size and the complexity of that responsibility that NOAA has, and work very closely with Dr. Sullivan to make sure that we're trying to acquit our responsibility to the highest standard.

FISHING RED SNAPPER IN THE GULF OF MEXICO

Senator SHELBY. Madam Secretary, I'm going to reference the red snapper fish that's very prevalent in the Gulf of Mexico. In recent years, the Department has curtailed red snapper season in the Gulf of Mexico due to questionable stock assessments and poor management decisions. In fact, two weeks ago a Federal judge ruled that the Department mismanaged the red snapper fishery in the Gulf, and the result could be an 11-day red snapper season this year, down from 40 days last year. The red snapper population has really grown. It probably needed to grow at one time.

I believe, Madam Secretary, that we must use sound science and accurate data to evaluate the health of the snapper stock, like any-

thing else. If we continue with today's ad hoc approach, we will have little certainty about the true status—in other words, the truth—of the red snapper, and there will be negative economic outcomes for both commercial and, you mentioned, recreational fishermen in the Gulf of Mexico.

What is the Department, in light of all this, doing to ensure that it can obtain more timely data to better understand and to manage the fisheries, including the red snapper?

Secretary PRITZKER. Senator, first of all, let me talk a little bit about the red snapper, then talk more about what we're doing in terms of stock assessment.

So in terms of the red snapper, last summer's stock assessment showed additional catch could be allowed, which we did.

Senator SHELBY. We did.

Secretary PRITZKER. And we worked hard to update the catch limits. And as I understand, the 40 days was something that we felt we were making progress. The challenge, of course, is the fish, as I understand, have gotten bigger. This is good because this is a step toward a continuing growing of the fish population. And I'm well aware that recreational fishing spending in this country is about \$4.6 billion. This is a significant industry, and the multiplier effect is quite large.

Senator SHELBY. What about the commercial fishing? What's that worth?

Secretary PRITZKER. Well, it's even larger.

Senator SHELBY. Larger.

Secretary PRITZKER. Right. So the point being this is extremely important, the red snapper, and the court finding is disappointing in the sense of it questions the science.

So one of the things that we've asked for in our fiscal year 2015 budget; our stock assessments are critical data that obviously are affecting the decisionmaking around catch limits. So we've asked for a modest increase, up to \$72 million, for next-generation stock assessment research so that we can continue to improve the quality of the stock assessment.

I clearly understand the importance that this work has and the implications it has on both the commercial as well as the recreational fishing all across our coastlines. So this is important that we get this right and something that we undertake very seriously, and Undersecretary Sullivan is very focused on this.

Senator SHELBY. Do you agree with me, you can't just do things in an ad hoc way, you need real data?

Secretary PRITZKER. Absolutely, and the data needs to be something that we all have confidence in.

INVESTMENT IN MANUFACTURING COMMUNITY PROGRAMS

Senator SHELBY. Madam Chairman, I've got one quick question, and I will be quick on it, if you'll allow me, and I mentioned this earlier, the Investing in Manufacturing Community Program. That seems like to a lot of people central planning. You're choosing 25 communities out of the whole Nation as favoritism, so to speak, and that's very dangerous, I think, and sounds like central planning to me. I'll talk with you about that again, but my time is short now.

Thank you, Madam Chair.

Secretary PRITZKER. Thank you.

Senator MIKULSKI. Senator Reed.

Senator REED. Thank you, Madam Chairwoman.

And thank you, Madam Secretary. I want to raise an issue which is important to NOAA and particularly important to my home State of Rhode Island.

RELOCATION OF THE NOAA VESSEL

The fishing survey vessel Henry Bigelow has been stationed, home-ported in Newport, Rhode Island since 2009. But because of the changes with respect to the Coast Guard and Navy there, they might not be able to stay there past roughly 2016, and there's some talk of moving it to Woods Hole, which would be about a \$20 million investment, dredging and improvements; when, in fact, about a 5-minute cruise across the bay there is former Quonset Naval Station but now Quonset Point, which is already the home to the NOAA vessel Okeanos Explorer, which has a shore-side facility there, NOAA facility. It's already been developed. The money has been invested.

I would just ask you to seriously consider the option of not taking the ship out of Narragansett Bay and spending \$20 million for it elsewhere but spending very little and simply transferring it across.

And I would add another point. The Narragansett Bay complex is the home to URI School of Oceanography, to a laboratory of the Marine Fishery Service, to the Naval on the Water Warfare Center, to all of the facilities that are available at the Newport Naval Base. So for those reasons also, to me this is a very simple choice, which would be Narragansett Bay. Could you look at that option?

Secretary PRITZKER. Absolutely, we are, and Vice Admiral Devany is working on this issue as we speak. We have the idea of spending the \$15 million at Woods Hole as one that is a challenge. So he is really working on this issue.

In terms of the science and the laboratories that are there, those are very important and ones that we're rebuilding after they took a bit of a hit during the sequestration period. But we're very committed to those.

Senator REED. Given the tightness of your budget, and that's being mild, the idea of generating \$20 million to do something that, frankly, could be done as well, and I would argue better, by simply moving the ship across the bay would make sense to me.

FISHERY SERVICE LABS

A similar issue with respect to Narragansett Bay, but it also has a larger impact, and that's the National Marine Fishery Service's labs in the Northeast have taken cuts because of sequestration, because of other aspects. They are truly important as to not only the research they do but connecting our local fishermen into the process, getting their feedback and their assessment. And frankly, my fishermen feel that when they go to the Science Center, they get rebuffed. They're told, "You're not a scientist; go away." When, in fact, every day they're on the water, they have an understanding of the stocks and everything else that is not associated with that.

And once again, this is so close to the School of Oceanography, URI, there is a reinforcement there, too.

So I would ask you to avoid cuts in the future, but also to look at ways that we can invest in a partnership through the labs with the fishing men and women and the fishing industry, not just in Rhode Island but all through the Northeast.

Secretary PRITZKER. As I said, the labs are very important, and the rebuilding of our capacity at those labs is something that we're focused on, and working with the local fishing industry is something that we're absolutely open to and happy to work with you on.

Senator REED. Thank you, Madam Secretary.

OCEAN EXPLORATION

A final point is that you have a significant cut, 27 percent, \$7 million, in ocean exploration, and it becomes more and more important. We are all spellbound by the fact that we know so little about the Indian Ocean as we search desperately for the remains of that aircraft, and it just shows the gaps we have in our knowledge. And as we cut back on ocean research which is valuable to understand particularly climate change, the opening up of the Arctic, changes globally, I would ask that you look closely at this item.

Our vessel, the Okeanos Explorer, can only go to sea if the resources are there for exploration, and I ask you to look at that.

Secretary PRITZKER. I appreciate it. I mean, our fiscal year 2015 budget does propose \$19 million for ocean exploration and research. While we know this is a cut, we think that's robust funding for us. But I'll take a look at it.

Senator REED. Thank you, Madam Secretary.

Thank you, Madam Chairwoman.

Senator MIKULSKI. I'm going to suggest this. We're all Senators and we need to trust each other. So what I mean by that is ordinarily they would recess the committee and come back for the vote. I'm going to say that Senator Kirk wants to ask a question and Senator Merkley wants to stay to answer a question, I'm going to dash to the vote and dash back, but I'm going to keep the committee in session and let the Senators ask, or let's go back and forth. Let's presume we can all trust each other and act according to old-school rules and Senate rules.

The committee will continue to operate, and I turn to Senator Kirk.

Secretary PRITZKER. Thank you, Chairwoman.

NTIA, INTERNET CONTRACT

Senator KIRK. Penny, I just wanted to ask you a question about this rolling story in the Internet media that somehow the Obama administration is going to give up control of the Internet to the U.N. or something like that. I think the guts of that story is the ending of a contract between NTIA and ICANN I think it's called. I want to make sure the essence of accountability to American values for an institution that we have built continues with First Amendment values surging through the Internet to make sure that those countries like China, which would totally interrupt those values.

Secretary PRITZKER. Senator, let me talk a little bit about that for a minute. First of all, I want to be absolutely clear, the Department of Commerce and the NTIA, which oversees this contract, we are committed to a free and open Internet. The stated policy since 1998 was—what we oversee at NTIA is a contract, as you said, between ICANN and the various organizations—there are three—that get the benefit of this contract, the International Engineering Task Force, the Regional Internet Registry, and the companies who run the domains. We simply monitor whether that contract is being implemented effectively.

The proposal that we are suggesting is as follows. We're not going to proceed with anything unless we are satisfied with the following, which is that ICANN can continue to move forward as a multi-stakeholder model of governance. Two is that we maintain the security, the stability, and the resilience of the Internet's domain name system. Three, we have to meet the needs and the desires of our global customers, and we've got to have the openness of the Internet.

But there's a final criteria that everyone needs to keep in mind. We will not accept a proposal where ICANN is replaced with a government or intergovernmental organization like the U.N.

So this is not a handing over of the Internet to some other government. This is an evolution that was anticipated at the beginning that eventually NTIA would step back from this oversight role of a contract that actually exists between two parties.

We as the United States remain a very important voice, would remain a very important voice in the multi-stakeholder process. So it's not like we're going away from this at all. And the thing that is important to keep in mind is we're doing this at a time when there's plenty of time to see if our criteria can be satisfied. We have a year left on the existing contract, our oversight contract, and then we have two 2-year extensions at our unilateral right. So we have a long runway to make sure that we're going to be confident that ICANN can undertake this without our continued oversight of this contract.

Senator KIRK. I'm not done. Let me close by saying that the First Amendment, which kind of runs through your blood, and American involvement in ICANN to make sure that left-wing dictators around the world who would like to shut off the Internet. We need to make sure that it can't be shut off.

Secretary PRITZKER. I completely agree, and I want you to be reassured that the Department of Commerce and NTIA, we are committed to a free and open Internet.

Senator KIRK. Thank you, Madam Secretary.

Secretary PRITZKER. Thank you.

Senator SHELBY [presiding]. Senator Merkley.

ANTI-DUMPING AND SUBSIDY ENFORCEMENT

Senator MERKLEY. Thank you, Mr. Chair, and thank you, Madam Secretary, thank you for the work that your Department does facilitating exports which are so important to nurturing manufacturing, the jobs that are associated with it here in the United States.

I wanted to ask about one part of this puzzle, and that is how the International Trade Administration handles anti-dumping and subsidy enforcement issues, which is a central function to trying to create something close to a level playing field. We face a variety of foreign subsidies that are unannounced.

I find it very interesting when the WTO calls for nations as part of their responsibility to lay out the subsidies they provide, and when they don't do so, another nation has a choice of posting such known subsidies. And when I proposed an amendment to this, with two weeks a list of 200 Chinese subsidies was produced. It was very helpful in trying to understand many of the things that happen behind the scenes.

We had testimony in my Economic Policy Subcommittee earlier this year about many of the things that we face, and I'm referring specifically to China in this case, but may well apply to some other countries where local officials make it their normal business to take land from farmers without adequate compensation, friends at local banks finance the construction of a trade development zone, they give away land, factories and utilities to foreign investors, which certainly is attractive to moving your factory to a place where these types of subsidies exist, and that doesn't even count the State-owned enterprises and the State-backed banks that not only control companies in China but begin to acquire companies here in the United States.

I found it quite interesting that China had its first-ever corporate bond default. That tells you something about how subsidized the system is, that folks who have companies that go down the wrong path always seem to get bailed out.

This process is a challenge for us to sustain jobs here in manufacturing in the United States, and I just wanted to ask about your thoughts on this. These types of subsidies are hard to capture, they're hard to bring cases on, and in general I don't think we have many in that category. But I thought I would ask you about that, whether the Department has been able to bring cases addressing the types of subsidies that I'm talking about, whether there is a deliberate effort to evaluate these strategies that are certainly not consistent with the structure of the WTO and their impact on our U.S. economy.

Secretary PRITZKER. Senator, first of all, let me start by saying both the President and I are absolutely committed to trade enforcement, and the Department works on this. It is a major focus as part of our ITA work. And I have a lot of confidence in the leadership team that we have that do our trade enforcement work. They're very, very dedicated to trying to address these issues.

The question of whether we would self-initiate anti-dumping in countervailing duty cases, it's very rare to do that, to self-initiate, because a case requires the involvement of the industry, but we're happy to arrange consultation for any industry with our experts if they feel there's an area that needs relief. We work very closely to make sure that that process is very transparent.

In terms of strengthening our trade remedy laws, particularly with China, I co-chair with the U.S. trade reps something called the U.S.-China Joint Commission on Commerce and Trade (JCCT), which is our annual dialogue with the Chinese on trade issues, and

this is a constant thing that we are focusing on. It's a very challenging process. I won't say that it's easy, but it's something where our goal is really to prevent U.S. businesses and workers from being subject to unfair trade practices around the country, around the world. So it's something that we're very, very focused on.

Senator MERKLEY. Another type of subsidy is the lack of enforcement of environmental standards and extremely predatory labor conditions in some cases, and a proposal or an idea is to allow companies to use the anti-dumping strategies to bring cases when their competitors are subsidized by the failure of enforcement, basically the failure to abide by the basic, core principles of the WTO. Have you given any thought to that particular approach?

Secretary PRITZKER. I have not focused myself on that, but it's something I'd be happy to discuss with my team.

Senator MERKLEY. Thank you very much.

Secretary PRITZKER. Thank you.

ELECTRONIC MONITORING FOR TRAWLERS

Senator MERKLEY. Can I have one sentence?

Electronic monitoring for trawlers in the Pacific.

Secretary PRITZKER. Yes.

Senator MERKLEY. They're very concerned that they're not getting the intention or the speed, and for these small trawlers to get observers flown in from other cities, San Francisco or Seattle, extremely inconvenient, extremely expensive. We need a lot of cooperation in trying to pursue the electronic monitoring. Thank you. I'll follow up with that.

Secretary PRITZKER. Please do, and we're very focused on that. Thank you.

MARKET COMPETITION

Senator SHELBY. Madam Secretary, I'm going to pick up on the mission of Commerce, and this comes out of your bulletin. I like the stated mission, "to create the conditions for economic growth and opportunity." That's what we want to do in America, starting with education, good infrastructure, and so forth. All States, from Maine to California, from Florida to Michigan. And I like the slogan, "America is Open for Business." The more we talk about that and the more we, in reality, do that, the better off we are, and that includes the domestic market and the foreign market, everything.

INVESTMENT IN MANUFACTURING COMMUNITY PROGRAM

You know this. You come out of the business community.

But it's troubling, really troubling to a lot of us, not just me, where you would select, try to select 25 communities for special treatment in the U.S. and exclude thousands of communities. That's picking winners and losers, in a sense, in the marketplace, which is what we don't do. We let the market decide that.

So this is a deviation, basically, from the principles that built this country and sustained this country, and that's why Congress has not supported this. This is something in your proposal that you're wanting to do that I think will run into trouble again in the

Senate and in the House. It's something that maybe we ought to talk about again.

Secretary PRITZKER. Well, I would be happy to talk about it, and I appreciate the concern. There's no intention to pick winners and losers but rather to allow regions to coordinate their planning and to tell the Federal Government how they intend to address multiple areas of investment that are required in order for those communities to be able to support growth in manufacturing.

The goal is really more to see that there are communities and encourage communities to create an integrated plan. It's not meant to pick winners or losers.

So I would be happy to work with you to make sure that we address the concern.

Senator SHELBY. Well, I'd like to meet with you further. We'll call you and see where we go from here. But the idea of picking winners and losers in the marketplace, that's the tenet of communism, socialism, and so forth.

Secretary PRITZKER. That's not our intent.

Senator SHELBY. And it's something I think is abhorrent to that we're open for business.

Secretary PRITZKER. Terrific. Well, that's not our intent.

Senator SHELBY. Ultimately the market will decide winners and losers in the marketplace, and the government should not do that, should it?

Secretary PRITZKER. Senator, you and I agree on that.

Senator SHELBY. We're hoping somebody comes back.

She's on the subway. I'll wait just a few minutes, try to keep this hearing going.

We'll recess just for a few minutes until the chairperson comes.

Secretary PRITZKER. Terrific. Thank you, Senator.

Senator SHELBY. Thank you.

[Recess.]

JOB CREATION

Senator MIKULSKI [presiding]. Madam Secretary, while we expect Senator Collins and some other Senators to return, I'm going to go back to the job issue. One priority is to create more jobs. The other is to retain the jobs we have, and even the possibility of bringing jobs back home from overseas.

But here goes to my question about trade and trade missions. The job of the Secretary of Commerce has been, as I said, the President's ambassador to business, and the ambassador of business to the President. And often, they have led trade missions around the world. So it's been both an executive position and a sales position.

DEPARTMENT OF COMMERCE'S ROLE IN CREATING AND RETAINING JOBS

You have 11 different agencies, from NIST to NOAA to Trade. So we're talking about everything from red snapper quotas to import quotas and export quotas, and so on.

So here goes to my question. Often, the traditional role is assumed by the Secretary of Commerce. Tell us what you're doing.

Are you leading trade missions? How do you see your role in generating jobs, retaining jobs, and even trying to bring jobs back home?

Secretary PRITZKER. Well, Senator, first of all, thank you for the question. Since day 1 when I took this job, I brought with me a sign to my office, and it says "Open for Business." To me, this is my area of focus. Why is this my area of focus? It's my area of focus because I know that if we create the conditions for the private sector to thrive, they will create jobs.

So one of the first things I've done is spend a lot of time with business leaders to understand what do they need in order to be successful. I've met with probably over 1,000 CEOs and private sector business leaders since I've been in this position. And what have they said to me that they need in order to grow their businesses?

For example, in terms of trade and investment, I'm very focused on the fact that 95 percent of customers live outside our borders. So while American businesses are growing within the United States, our job with both our U.S. Export Assistance Center and our Foreign Commercial Service is to help those businesses continue to export. Why? Because 11.3 million Americans today, their jobs depend upon exports, and that's up 1.6 million jobs since 2009. That's why funding of our Foreign Commercial Service is so important.

At the same time, we're also trying to attract foreign direct investment; 5.6 million American jobs today are supported by American subsidiaries of foreign-owned companies. That's why funding of Select USA is so important, that we build upon these good jobs. We know they're good jobs because the jobs from foreign direct investment companies pay over \$77,000 a year.

I recently as well returned from several trade missions. First I was in Mexico, and then I was in the Middle East. I will tell you that on our trip to Mexico I took a company from Los Angeles called Louroe Electronics. They came back and said that because of the five different potential business opportunities that they found, they're increasing their workforce by 10 percent.

So we know that all of these efforts are helping to grow jobs in this country.

I'm also very focused on innovation, competitiveness, and entrepreneurship. Why? Because I know that I think it's 40 percent of our GDP—and I'll confirm that statistic—depends upon new innovation, growth in our GDP, 40 percent depends upon new innovation. What are we doing specifically? I made skills and workforce development a priority of the Department for the very first time in history, working with the Department of Labor to say how does the Department of Labor and Commerce affect something that I think is very important, which is workforce training needs to be business-led. We can no longer, as the Secretary of Labor would say, train and pray. We have got to offer people the kind of nationally recognized stackable credentials that they know, when they go and get that training, that there are jobs at the end of that endeavor.

So, to me, that's a very important part of helping to grow and fill the 4 million open jobs that we have today in this country by helping the long-term unemployed be prepared for those jobs.

Another thing that we at the Department are focused on in job creation is we're working across the agencies to promote the pas-

sage of the NNMI bill and develop these regional manufacturing hubs. Building a bridge between R&D and getting to market is something that requires some catalyst from the Federal Government, and those will also lead to good jobs. The institutes, I think, are a brilliant conception by both Congress and the President because of the Federal money. Why is the Federal money important?

I've talked to the people who have put together these institutes, and they said without the catalyst of the Federal dollars, they would not have come together, the universities, the private sector, the community colleges, and the workforce training system, as well as the supply chains, in order to address this need for pre-competitive research in our country. And we are doing so much less of this than other countries around the world, and I think this is something that is very, very important to job creation.

Senator MIKULSKI. Madam Secretary, I think I've got the picture there. We want to work with you.

I want to make sure that Senator Collins has a chance to ask her questions.

Secretary PRITZKER. Terrific. Thank you.

Senator MIKULSKI. She's on about three other subcommittees. So we'll come back to pick up—

Secretary PRITZKER. Sorry.

Senator MIKULSKI. No, no. That was excellent. We could spend all day just on that, as well as the need for interagency cooperation. My smaller manufacturers say they need the Import Export Bank, they need the Foreign Commercial Service Office, and they need to be able to know how to use the resources of their own government.

Senator Collins.

FISHERIES DISASTER ASSISTANCE

Senator COLLINS. Thank you very much.

First let me thank you, Madam Chairwoman, for your work, and that of the Vice Chairman, for your support in appropriating fisheries disaster assistance in last year's omnibus funding bill. This was no easy task but a very important development.

FISHERY DISASTER RELIEF FUNDING

I also want to thank you, Madam Secretary, for exercising your authority to waive the 25 percent State matching requirement for fishery disaster funding. Waiving that match was absolutely critical given the constraints that the States have and to ensuring that the funding will be used in ways that have both immediate impacts and constructive long-term effects.

We've been working closely with the Regional Administrator, John Bullard. He is making quite an effort to try to achieve a consensus among the affected States regarding the allocation of the funding, which is no easy task, I will tell you.

Secretary PRITZKER. It's not easy.

Senator COLLINS. Although consensus among the affected States has not yet been achieved, one thing is clear to me, and that is that our Maine fishermen are struggling now, and they're very worried about what the future is going to bring.

So there's a delicate balance between what needs to be addressed for the very real and immediate needs of our fishermen and making those targeted investments for the long term that will allow the fleet to survive and become more sustainable, and there are a lot of creative ideas out there, as I've learned when I attended the Fishermen's Forum this year.

We're concerned about not only the short-term survival of our fishing communities but their long-term success also. We really don't want to find ourselves going from crisis to crisis year after year. How will you encourage NOAA to ensure that the \$32.8 million in disaster relief is used in ways that will have positive, lasting effects on New England's historic ground fishery industry?

Secretary PRITZKER. Well, Senator, first of all, I want to assure you that I am very sensitive to the fact that fishing is a lifeblood to so many New England communities, and I appreciate the challenges that are created for both individual businesses, families, et cetera, that are affected by the stocks and the level at which the stocks exist.

We are very focused on making sure that—two things: first of all, stock assessment is improved, which is why in our budget we've called for \$72 million to continue improving the quality of our stock assessment so that we have better and more transparent information. So first of all, to not go from crisis to crisis, we need good information.

The second is to work—you know, John Bullard, I think, as you said, he does not have an easy task ahead of him, but making a priority that we also make wise investments is one that I know is part of his criteria. I will make sure that Undersecretary Sullivan and John work closely so that we're not making short-sighted, if you will, investments with the scarce resources that we have to invest.

Senator COLLINS. Thank you.

Madam Chairwoman, could I ask a second question?

Senator MIKULSKI. You absolutely can.

Senator COLLINS. Thank you so much.

Senator MIKULSKI. You know, your questions about these disasters and these data and so on affect all of us. Prior to your arrival, Senator, I was saying that there are so many members on this subcommittee, coastal Senators who have such common interests. Please proceed and take whatever time you need.

TRADE AND FOOTWEAR MANUFACTURING

Senator COLLINS. Thank you.

Madam Secretary, I want to switch now to a trade issue, especially given the emphasis that you are putting on increasing exports and trying to get more American manufacturing, which are goals that I wholeheartedly support.

Just a few decades ago, there were more than 50,000 footwear manufacturing jobs in this country, and many of them were in my State and throughout New England.

Senator MIKULSKI. The famous Dexter loafers.

Senator COLLINS. Exactly. That is one of them.

Today there are fewer than 5,000, which is just incredible. A thousand of those jobs are in the State of Maine at three New Bal-

ance factories, and we have some other specialty shops in my State. Those jobs support many other small businesses and local economies, particularly in our smaller towns—Norridgewock, Skowhegan, Norway, Maine, for example.

With the Trans-Pacific Partnership (TPP) discussions well under way, I, along with Senator King, have repeatedly met with the trade rep and have asked for assurances from this administration that any agreement is crafted in a way that allows those companies that continue to make shoes here and want to grow here have the opportunity to do so. To me, we ought to be rewarding those manufacturers who did stay and keep some of their manufacturing here in America rather than moving overseas.

If done improperly, I am very concerned that TPP could have a disastrous effect on the remaining athletic footwear workers in my State.

What update could you provide on the negotiations regarding these extraordinarily important issues that directly affect jobs?

Secretary PRITZKER. Senator, first let me start by saying I know how important this issue is, and it's one of great importance not just to you and your constituents but as a New Balance wearer I appreciate my Made in America running shoes, if you will, that I wore this morning.

Senator COLLINS. Good taste.

Secretary PRITZKER. The Commerce Department works with the U.S. Trade Representative on negotiating these deals, and we have been in constant consultation with you, with the various stakeholders on the views regarding this and TPP.

The latest state of negotiation, I would have to get back to you as to where it is, but I want you to know that we recognize and are well aware of how significant this issue is, and it has been foremost as the negotiations have—it's been front of mind as the negotiations have been proceeding. But I will have to get back to you as to what the current state of play is.

Senator COLLINS. Thank you. That would be very helpful.

Thank you very much.

[The information follows:]

ATHLETIC FOOTWEAR AND TPP

Commerce and USTR are engaging with all of our TPP partners, including Vietnam, on a continual basis to discuss market access issues, including apparel and footwear. In these discussions, we continue to represent the concerns of our domestic athletic footwear manufactures. The next set of face-to-face meetings with all TPP partners is scheduled for mid-May. We will continue to ensure that the discussions regarding market access for footwear take into account the interests of domestic stakeholders.

FISHERY DISASTER

Senator MIKULSKI. Before, Senator Collins, we go to Senator Coons, on this whole fishery disaster, one of the first issues we had was our very own colleagues didn't understand how fisheries disaster certification worked. They thought it was FEMA that designated it, as compared to you, Madam Secretary. So one of the areas we really need to do is educate our own colleagues, and we need to look forward to doing that communication.

Fisheries disasters have affected pretty much every area of the coast. As we worked on the New England fisheries disaster, we note that our colleagues on both sides of the aisle from the Pacific Northwest—Merkley, Murray, Murkowski—regardless of the zip code they lived in, were facing that.

And we see that it's three things, environmental consequences, but mostly over-fishing, and it's not over-fishing by us and how we enforce those laws. And then also the ability to collect better data. And then if over-fishing is caused by poachers, why punish the American fishermen as they're trying to make their comeback?

And we need clear guidelines, too, on how we do help with fishery disasters. We want to avoid them. We saw the near collapse of Georgia's bank. We heard what was happening in the Pacific Northwest. The decline in crabs in Maryland was due to the decline in the Chesapeake Bay. That was environmental. So we've got a lot to do.

But this is big business, and it's also, I might add, a part of our identity. When you think of Maine and you think of Maryland and you think of the great Pacific Northwest, yes, you might think of Microsoft, and when you have Senator Shelby talking about the red snapper, I've heard Senator Shelby speak about many things, but this shows the concern we have. So, let's work together on it.

Thank you very much.

Senator Coons.

MANUFACTURING

Senator COONS. Thank you, Chair Mikulski.

Thank you, Secretary Pritzker. Great to be with you again. And I'll ask a few questions, if I might, and I'll try to keep them focused, first about manufacturing, which we've spoken about before.

American manufacturing has been making a comeback over the last 4 years. We lost nearly 6 million manufacturing jobs in the first decade of the century, but we've regained about 600,000 in the last 4 years, and I'm eager to continue to work with you on initiatives that can strengthen manufacturing.

First, I was pleased that your budget suggested an increased investment in the Manufacturing Extension Partnership, which I've seen very effectively work with small, local manufacturers to allow them to access the latest thinking and skills in terms of lean manufacturing. I'd love to hear a little bit about your plans for the MEP.

And second, the National Network for Manufacturing Innovation is something the President is moving forward with existing budget authority in DOD and DOE, and I'll mention that the University of Maryland, the University of Maine, and the University of Delaware are actually collaborating on the next application to be a composite Center of Excellence.

What are your plans in terms of moving forward with support for the authorizing bill that Senator Brown and Senator Blunt currently have, and how would you see the benefits of that network moving from something that is purely an administration initiative to something that is authorized legislatively and could then be sustained over a longer, broader range?

Secretary PRITZKER. Well, thank you, Senator. First of all, manufacturing is near and dear to my heart. It's something that I've been involved with literally all my life.

I'll start with the Manufacturing Extension Partnerships. When I came into this job, I had spent 27 years in business, but I really did not understand what the Manufacturing Extension Partnerships were, and I went out to actually see and talk to manufacturers about is this really valuable, how could the Federal Government really be providing that kind of value added, and I was, frankly, blown away, and I had my head turned by the impact of the MEP. Hence, the reason we believe we should expand the MEP.

Obviously, they are partnerships, they're local, and they work with local manufacturers to help them adopt processes that, frankly, large companies have easy access but it's very hard for a small company to do on their own. And to me, this is one of the great services that we provide at the Department of Commerce. Frankly, it's not understood well enough.

One of the things I hope is that, along with our Foreign Commercial Service and our U.S. Export Assistance Centers (USEACs), that I could try and raise the profile of these great services that we offer.

As it relates to NNMI, I'm passionate, as you know, about this bill. I believe that it's absolutely essential that the Federal Government plays a role in helping to be a catalyst for the development of these institutes. The gap that needs to be filled between R&D and deployment to market is one that very often a single company cannot do by themselves. And so I've talked to a number of the folks who have competed for the existing NNMI programs, and they all tell me we would not have come together but for the Federal catalyst of dollars.

So I think this is really important. I have offered to Senator Blunt and Senator Brown—in fact, Senator Graham reached out to me about 10 days ago and asked me to work with the group to try and help get this legislation passed.

I think one of the important parts of the legislation is the fact that the Commerce Department will play a role in terms of taking the best practices of the institutes and sharing them among the institutes. I think there's an enormously important role that today is not provided for. So I'm all in on both of these.

Senator COONS. Thank you. As a co-sponsor, I'd welcome your assistance as an advocate for the collaboration between our three States and many, many others in the existing collaborations.

Secretary PRITZKER. Whatever I can do.

Senator COONS. We would be grateful.

FOREIGN COMMERCIAL SERVICES

Let me briefly touch on three things. The Foreign Commercial Service has been brought up before. I believe in their value. I want to work with you to strengthen their efficacy and reach. I'm pleased to see you've updated the model that's more forward-looking, and it is my hope that the African continent will be considered as a place where we are really in competition and where I think we need more of the FCS.

The program I've mentioned to you before. This is very small in scale but means a lot to our coastal States, where providing some of the support for the operation and maintenance of the program helps particularly those of us who have rivers where there is navigational challenge. We had put report language in or suggested report language last year. I was disappointed the operations and maintenance wasn't in this year's budget, and I'd love to work with you on that.

IMPROVING THE FUNCTION OF PATENT AND TRADE OFFICE

Last, any comments you've got for me on the Patent and Trademark Office. Ending fee diversion was something that was a key piece of the American Invents Act. Making sure the Patent and Trademark Office is strong and that patents are high quality, and that they are being issued in a timely and appropriate manner is a real concern to me. I just, in closing, would love to hear your thoughts on how we can ensure an appropriately funded, fully functioning, strong Patent and Trademark Office.

PATENT FEE COLLECTION

Secretary PRITZKER. Well, let me comment on the Patent and Trademark Office. Our expectation is that we'll receive about \$3.4 billion worth of fees this coming year, and that will allow us to do a number of things.

First of all, really address the IT system, which needs investment—that was something that was a casualty in the fiscal year 2013 situation—so that more easily our examiners can access prior art and better understand that, as well as streamline the relationship with the patent applicants. One.

Two, we are planning to expand by 1,000 patent examiners. We need to do that. We have a backlog which is not at the place we want it to be. We currently have a backlog of about 600,000 patent applications. We'd like to run with a backlog of about 450,000. We think that's the right balance of inventory to keep our workforce fully deployed, if you will, and that's something that we're very, very focused on, the IT system. The additional examiners will help us bring that down significantly over the next several years.

And then the other thing that we're doing is we have developed an operating reserve, which is something that we think is very important, so that as the economy fluctuates up and down—a patent examiner is someone that receives, when we hire someone, an enormous amount of training. And what we don't want to do is if the economy goes up and down, we don't want to let go of our very valued human capital because of a fluctuation in the economy one year.

So the reserve is something that we believe in this year's fees will allow us to be able to have a good cushion as the economy fluctuates.

So the Patent and Trademark Office is making great progress. There is work to be done, but I have a lot of confidence in the leadership we have there.

Senator COONS. Thank you, Madam Secretary. Good luck on your upcoming trip to Ghana and Nigeria. I very much look forward to hearing about it.

Secretary PRITZKER. I am very excited about it, and thank you for all the advice and help you've given us.

Senator COONS. Thank you, Madam Chair.

Senator MIKULSKI. Before Senator Coons goes, I want to raise this issue about the Patent Office and its fees. You said the fiscal year 2013 situation. Didn't you mean sequester?

PATENT OFFICE FEES

Secretary PRITZKER. Yes.

Senator MIKULSKI. Didn't the Patent Office have access to the fees that were being paid in sequester, or were they denied access to fees?

Secretary PRITZKER. There was an amount that was set aside that we did not have access to. We feel that the fiscal year 2015 or the \$3.4 billion in fees that we expect this year will help address the issues that we experienced back then.

Senator MIKULSKI. Well, I'm going to raise the fee issue. There are two important agencies that are crucial to innovation, in taking products to market and protecting intellectual property and the safety of people, the FDA and the Patent Office. My biotech community, which is a very thriving community, feels they stand in two lines to get approved, FDA and the Patent Office.

So we struggle with backlogs. Both are funded by user fees. FDA, under sequester, did not have access to the user fees. The biotech, the pharma, the medical device community was ballistic. They're paying fees. They think they were going to get value—the reason they're paying fees was to get the trained workforce that they needed with the new innovative technology. They didn't have access.

Right now, Dr. Hamburg's got \$225 million worth of fees she thinks she's going to have for this year and maybe into 2016. Remember, we have not canceled sequester.

So then we go to your Patent Office, which is really our Patent Office. It is crucial to every new idea, every new product, every new thing that could come out of Maine, Delaware, Maryland, our great universities, all the things you just talked about.

So here is my question. I worry about this, and I really think OMB has to worry about this. And I think they have to come to grips with what we would hope—many of us want to work on a bipartisan basis to permanently cancel sequester. That would be my goal, so that every year talented managers that we ask to come into government, like yourself, are not worried about sequester, you're worried about fulfilling the mission.

But if we go to the private sector, we're asking them to pay fees so they can have the capacity to fulfill the mission, which is patents, food safety, and the safety of pharmaceuticals, biotech, and medical devices. They should be able to get what they're paying for.

So I would encourage you to join with Dr. Mary Hamburg at FDA and go to OMB and say—not for this year—thanks to the Murray-Ryan budget, again, a bipartisan effort, we're able to move ahead with this bill, but I'm looking ahead also to 2016 so that we keep the momentum going in our economy.

We've come a long way since the economic collapse. We know unemployment is going down. We know the deficit is going down. We

know that the debt is going down. We want to keep that momentum going.

One of the ways to keep it going is to make sure where some of the greatest innovation is occurring in our economy is able to have access to the government agencies they need to either get approval or protect their intellectual property, and they're paying for it, not only with their taxes but with an additional thing, a fee.

So if we could get—and I'm going to be raising this with Director Burwell herself, that we need to make sure that if sequester continues, which I hope it does not, and we'll work hard for it not to, that those where fees are paid are not disadvantaged, because the private sector says we work with you to create a fee structure that is reasonable, rational and achievable, and then we put the money in the pot and they can't access it.

So, we can't have this. It's counter-intuitive to what we want to do. So I really encourage that to my colleagues to be able to raise this because there are also other fees. But these are really the two very important ones that I think have a direct impact on jobs and also the direct impact on our economy, and we look forward to working with you and the administration on solving this.

Well, I think we've covered a lot of ground here today. The Department of Commerce has 11 different agencies in it, from taking the Census to minority business development. It's a lot to keep an eye on. Did you feel like this was a pop quiz?

Senator MIKULSKI. Well, we wish you well in your trade missions—

Secretary PRITZKER. Thank you.

Senator MIKULSKI [continuing]. And really working throughout these agencies to really, again, create the kind of jobs that we need to create.

I thank you very much for participating.

ADDITIONAL COMMITTEE QUESTIONS

If there are no further questions, Senators may submit additional questions to the subcommittee for the official record. We request that the Department of Commerce respond to our colleagues within 30 days.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. PENNY PRITZKER

QUESTIONS SUBMITTED BY SENATOR BARBARA A. MIKULSKI

FINANCIAL MANAGEMENT SYSTEM

Question. The switch to a new accounting software system, the Business Application Solutions project (BAS), aims to consolidate the 12 different systems that the Department of Commerce currently uses for managing finances, acquisitions, grants, and properties.

What is the Department doing to manage the risks and ensure the system is not a techno-boondoggle?

Answer. The project has a robust risk management plan that documents the processes, tools and procedures that are being used to manage and control project risks. The Department of Commerce utilizes a risk register which: evaluates enterprise and project risk impact, likelihood, and severity; identifies alternatives to achieve cost, schedule, and performance goals; supports informed decisionmaking on budget

and funding priorities; provides risk information for project reviews and milestone decisions; and, establishes continuous monitoring of the health of the project over time.

The BAS project risk is monitored routinely during extensive recurring executive review board sessions where risks are transparently discussed and mitigation strategies are reviewed and updated as warranted.

In addition, the Project Manager is a Certified Project Management Professional (PMP) and both the Program Manager and Project Manager are certified as Senior Experts in the Federal Acquisition Certification for Program and Project Managers (FAC-PPM).

Question. What contingencies are being put in place to address delays and unexpected expenses?

Answer. In accordance with industry standard project management methodology, the BAS project scope, cost, and schedule include contingencies commensurate with other similar-sized Federal agency financial management system implementations identified during market research interviews with other Federal agencies. There is planned contingency within the BAS project's schedule that would allow Census to be delayed until the end of fiscal year 2017 without impact to the 2020 Decennial. The BAS project implementation approach includes multiple planned activities to validate deployment readiness, including mock conversions, significant system and user acceptance testing and comprehensive end user training. Any issues identified during these activities will be documented, actively tracked and remediation solutions enacted. As part of our risk assessment activities, we maintain a list of alternative options that is updated throughout the project to use if remediation activities are deemed necessary. (Note: BAS inserted a 5 percent management cost reserve).

TRUCK SCRAPPING

Question. The U.S.-Colombia Trade Promotion Agreement has helped to broaden our trade relationship with Colombia, and the Colombian heavy duty truck market is very important for America's manufacturers. However, following the trade agreement, American truck manufacturers have been harmed by Colombia's adoption of a restrictive series of decrees regarding the scrapping and registration of commercial vehicles. These regulations appear to violate both the spirit and letter of Colombia's obligations under the bilateral Trade Promotion Agreement and its commitments to international obligations under the World Trade Organization.

What steps has the Commerce Department taken to restore American truck exports to Colombia?

Answer. The Department has been working to address the changes in Colombia's truck scrapping program since April of 2013. We have worked with other U.S. Federal agencies, including the Department of State and the Office of the United States Trade Representative, to analyze the scrapping requirements, including their legal basis, their impact on U.S. trade, and the political situation in Colombia leading to the increasingly restrictive decrees.

The Department is working with other U.S. Government agencies and industry to address the problems with the new scrapping regime. These efforts have also included coordinating with the European Union, Japan and Mexico, as well as engaging in outreach to the Organization for Economic Cooperation and Development (OECD) which is considering Colombia for membership. The Department raised the issue at the Ministerial level during President Santo's trip to the United States in December. Most recently, the Department worked to arrange and participate in a March meeting between members of U.S. industry and Colombian High Counselor Jaime Bueno, Vice Minister of Trade Claudia Candela, and Vice Minister of Transportation Nicols Estupian. This March meeting has led to follow-up meetings between industry and senior Colombian officials.

Question. Is the Department satisfied with the Colombian response to date?

Answer. No. However, industry recently reported that follow up talks to the March meeting have been constructive and offer hope for a positive outcome. The Department will continue to explore ways to effectively engage the Colombian authorities on this issue.

Question. Does the Department plan to undertake additional steps to resolve this dispute?

Answer. The Department is continuing to engage the Colombian Government on this issue on behalf of U.S. industry. Actions are being considered as needed to help reopen this important market.

NIST CYBER-SECURITY FRAMEWORK

Question. NIST issued the Framework for Improving Critical Infrastructure Cybersecurity in February 2014.

How are you encouraging “critical” U.S. infrastructure to adopt the Framework?

Answer. NIST plans to work with industry, the Department of Homeland Security (DHS), and other Government agencies to support and improve the Framework. The Framework is a living document that will evolve based on industry feedback, and best practices, including changes in the threat environment, as well as changes in information technology and cybersecurity capabilities.

Question. NIST also issues standards and guidelines for Government systems. How are those standards being aligned with the Framework?

Answer. As noted in our companion publication, “NIST Roadmap for Improving Critical Infrastructure Cybersecurity,” NIST will continue to serve as a convener and coordinator to work with industry, DHS, and other Government agencies to help organizations understand, use and improve the Framework. In addition, Executive Order 13636 called for the Framework to “identify areas for improvement that should be addressed through future collaboration with particular sectors and standards-developing organizations.” Based on stakeholder input, NIST continues to work with stakeholders on high-priority areas for development, alignment, and collaboration that will inform future revisions of the Framework.

As the Framework evolves, NIST will lead discussions of models for future governance of the Framework, such as potential transfer of the convener role to a non-government organization, while maintaining NIST involvement.

Question. What does the Department of Commerce need to do to secure its IT systems so it can become the role model for protecting dot-gov?

Answer. The Department is the principal defender and champion of the digital economy in the Federal Government. It plays a critical role in working with industry and other government stakeholders on the development of cybersecurity standards to help protect the Nation’s critical infrastructure assets. Within the Department of Commerce, the Office of the Chief Information Officer (OCIO) has developed a cyber security strategic plan that establishes the mission, vision, goals and objectives as an effort to establish itself as a role model for protecting dot-gov.

In doing so, the Department has embraced the President’s Cyber Security Cross-Agency Priority (CAP) initiatives, in collaboration with the Department of Homeland Security, in information security continuous monitoring, trusted Internet connection capabilities and traffic consolidation, and strong logical access authentication using Homeland Security Presidential Directive (HSPD-12) Personal Identify Verification (PIV) cards. Strengthening these key areas, as well as maintaining best-practices in cyber security policy, workforce training, and compliance, will ensure the Department continues to protect the Department’s information and information systems, and remains a role model for protecting dot-gov.

Last but not least, as an effort to achieve operational excellence set forth by the Department’s Cyber Security Strategic Plan, the Department’s Chief Information Officers (CIO) Council is recommending an enterprise security shared-service portfolio approach delivering efficient and effective solutions.

TRADE PROMOTION

Question. The fiscal year 2015 request for the International Trade Administration is 8 percent above the fiscal year 2014 level of \$470 million, including a \$7 million increase the Interagency Trade Enforcement Center and a \$13 million increase for SelectUSA. However, the President’s fiscal year 2015 request has only a 1 percent increase for expanding trade promotion through the U.S. and Foreign Commercial Service, and the request does not propose opening any new overseas offices.

If the trade promotion budget stays flat, how will the International Trade Administration (ITA) reevaluate its Overseas Resource Allocation Model (ORAM) to ensure that Commercial Service Officers are posted in the most promising export markets?

Answer. ITA uses the Overseas Resource Allocation Model (ORAM) and the Gap and Opportunity (GO) Analysis to inform staffing decisions. Whether or not the trade promotion budget stays flat, then Global Markets will continue to utilize both quantitative and qualitative data gathered from these resource allocation tools to make informed staffing decisions that ensure the proper allocation of existing resources, including the movement of resources, especially Foreign Commercial Service Officers. ITA updates the ORAM on an annual basis to ensure that the most up-to-date data, including growth projections, are included in the model. The model uses economic data to rank countries on two indices—market size and market structure. These two indices are then weighted and combined to generate a composite index that allows the model to group countries into three tiers based on overall

rankings. The results generated by the model are intended to be used as a starting point for identifying countries with the highest potential as a destination for U.S. exports. The model does not attempt to estimate an absolute level of “appropriate” staffing for each market or take into consideration the budgetary climate. Rather, the focus is on providing objective economic data in a consistent and rigorous analytical structure for allocating available resources.

In addition to the ORAM, Global Markets utilizes the GO Analysis to gather qualitative data to assist senior leadership with staffing decisions. The GO Analysis is designed to gather primary data from the overseas field, providing insight to challenges and opportunities at each post. The GO survey allows for a formal, standardized channel for overseas offices to request additional support.

The qualitative data from the GO Survey and the quantitative ORAM data is combined to develop country summaries, which are further reviewed by senior leadership, including regional leadership, before any resource allocation recommendations are made.

Final staffing decisions are made by senior leaders, who after evaluating both the ORAM and GO survey take budgetary and any other factors into consideration.

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

FISHERIES—WESTERN REGION

Question. Secretary Pritzker, the National Marine Fisheries Service (NMFS) plays a significant role in California. NMFS is tasked with managing and protecting endangered salmon species, and thus it participates in every major decision involving the State and Federal water projects in California to balance water needs for fish, the environment, farms, and communities.

As I understand it, NMFS is involved in the Bay Delta Conservation Plan, revision of the remanded salmon biological opinion, emergency water operations for the current drought, and a variety of salmon restoration and management programs.

In your view, is the current budget allocated to the Western Region of NMFS adequate to keep pace with the demands of the various California water initiatives?

Answer. NOAA Fisheries’ work in the Sacramento and San Joaquin watersheds occurs in three main program areas:

- Regulatory and Administrative functions for the Central Valley/State water project;
- Endangered Species Act (ESA) administration for the broader suite of actions across the entire Central Valley/San Joaquin geography; and
- Monitoring and technical support associated with these two areas.

NOAA Fisheries has a long history of working with its partners to fulfill its goals in the Sacramento and San Joaquin watersheds. These partners include the State of California and the Bureau of Reclamation. While the recent drought has increased short-term stress on completing regulatory requirements and highlighted the need for a more comprehensive management of the system focused on the long-term protection and recovery of salmonids, NOAA Fisheries has been able to keep pace with the demands of the various California water initiatives through its partnership efforts.

Question. Can you please provide me with a detailed breakdown of your activities, the resources required, and the funding gaps to meet your obligations?

Answer. NOAA Fisheries focuses resources on highest priority actions in the California Central Valley. Activities are supported by the ESA Pacific Salmon budget line. The fiscal year 2014 budget includes approximately \$6.6 million from the line for activities in the California Central Valley. Actions are focused on three primary activity areas: (1) Endangered Species Act (ESA) review and permitting, (2) ESA administration, and (3) monitoring and science. See below for a breakdown of current activities.

- Approximately \$180,000 to assist in the immediate drought response effort.
- Approximately \$400,000 per year supports biological opinion remand effort, now due in February 2018.
- Approximately \$5.0 million supports ESA administration across the Central Valley.
- Approximately \$1.0 million in funds are being used to support monitoring and science.
- Current work on the life cycle model is being funded through an interagency agreement with the U.S. Bureau of Reclamation for \$1.4 million.
- NOAA Fisheries is also conducting 3-year predation experiment funded by the by the California Department of Fish and Wildlife for \$2.0 million.

The fiscal year 2015 budget includes level funding for these activities.

Question. Besides operation of the State and Federal water projects, what other factors have you identified as the major influences and drivers of the health and abundance of salmon?

Answer. In addition to the impacts associated with the construction and operation of the Central Valley Project/State Water Project facilities, other main factors limiting the health and abundance of salmon in the Central Valley include:

- the loss of the majority of spawning and rearing habitat by dams;
- the loss of floodplain and riparian habitat availability along the main rivers and tributaries resulting from levee construction and maintenance;
- the loss of wetland habitat in the Delta;
- predation by non-native species;
- hatchery production causing reduced fitness of wild fish;
- the commercial and recreational ocean salmon fisheries;
- poor water quality resulting from agricultural and urban land use; and
- changing river and ocean conditions due to climate change.

Question. What has your Department done to address non-water project factors?

Answer. NOAA Fisheries is the Federal agency responsible for managing, conserving, and protecting living marine resources in inland, coastal, and offshore waters of the United States. NOAA Fisheries is contributing to the recovery of salmon and rebuilding of the Central Valley aquatic systems through its West Coast Region's California Central Valley Area Office. We work in the Central Valley river basins to protect species listed under the Endangered Species Act by evaluating the impact of proposed Federal actions, developing recovery plans, seeking conservation partnerships with local governments and landowners, and ensuring safe fish passage.

Pacific salmon have a unique life cycle that includes time in both inland and ocean habitats. They have particular needs at each stage of this cycle. Young salmon need clean, cool water and safe passage to the ocean, where they spend 3 to 6 years feeding and growing. They then need healthy habitat when they return to freshwater as adults to spawn. The work of NOAA Fisheries reflects the uniqueness of the salmon life cycle with biologists and engineers who:

- restore and protect important freshwater habitat for healthy rearing and spawning of salmon, such as riparian areas and floodplains;
- design safe fish passage solutions at hydropower facilities, such as Federal and non-Federal dams requiring Federal licenses, and at water diversions throughout California;
- manage hatcheries to minimize impacts on wild salmon populations; and
- work with States and tribes to ensure sustainable commercial, recreational, and tribal fisheries.

FISHERIES—REAL-TIME MONITORING

Question. It is my understanding that real-time monitoring of salmon throughout its life cycle can be extremely beneficial not only for managing the fish, but also for enabling more precise water operations. However, I have been told that NMFS's real-time monitoring capabilities are very limited right now.

What are the obstacles to developing and deploying the real-time monitoring tools?

Answer. Obstacles to real time monitoring of salmon include access limitations on private lands and labor intensive efforts and equipment needed over the long-term to collect the data. To take advantage of the best available real-time monitoring tools, an extensive fish tagging program is needed. Program needs include development of protocols, equipment (e.g., tags), adequate numbers of fish and a release strategy for tagged fish. In addition, receivers to detect fish movement would need to be installed in key locations. The receivers must be monitored frequently to ensure data transmission and operation is correct and the data must be carefully scrutinized to properly identify fish detections.

Real-time monitoring requires either direct biologist reporting and/or remote reporting (e.g., fish tags and receiving stations in the river to monitor fish movements) of information on a daily (or more frequent) basis to inform decisionmaking needed by agency managers at NOAA Fisheries, California Department of Fish and Wildlife, and other Federal and State agencies. Frequently, other information (e.g., flow gauge information and water release data) related to understanding the impacts of water operations on salmon does not require daily reporting, but is needed in a timely fashion to inform the real-time management cycle. Currently, NOAA Fish-

eries partners with State and other Federal agencies who are already collecting the information.

For salmon in coastal watersheds of California, NOAA Fisheries is engaged in technical, management, and policy discussions with the State of California regarding the State's Coastal Monitoring Plan. This Plan aims to document in real-time the status and trends of coastal California salmonids throughout their life cycles, and the condition of freshwater and estuarine habitats. However, the Plan currently lacks long-term State funding, dedicated staff, and able stakeholders to participate in monitoring.

Question. What is needed to overcome these obstacles, and by when do you think you can achieve these capabilities?

Answer. The first thing that is needed is a long term monitoring and science plan. As identified in the Bureau of Reclamation (Reclamation) and the California Department of Water Resources' Drought Operations Plan for April through November 2014, due to the necessity of rapid management decisions to achieve potential benefits to water storage or the conservation of species, agencies (including NOAA Fisheries) are interested in greater real-time operational decisionmaking, which the current monitoring system does not adequately address. To meet these real-time information needs, State and Federal agencies have committed to developing a robust multi-objective emergency fisheries monitoring and science plan, which includes improvements to current technology, to significantly improve the ability to make real-time operational decisions. NOAA Fisheries is developing additional temperature monitoring capabilities in the upstream Sacramento River area this summer. In addition, tools and research are also needed to improve understanding of biological effects associated with water operations regardless of hydrologic conditions. This overall plan will be developed by October 1, 2014, through a collaborative process led by NOAA Fisheries and the California Department of Water Resources in coordination with the other agencies. Once the plan is developed, NOAA can best determine what is needed on its part to move forward to monitor salmon in real time, in partnership with State and other Federal agencies.

FISHERIES—CALIFORNIA DROUGHT

Question. In the meantime, NMFS has been involved in discussions about emergency water operations to address California's drought conditions.

Besides the operational plan released jointly by State and Federal agencies last week, what other actions do you plan to take to assist California during this historic drought?

Answer. NOAA Fisheries, along with our Federal and State colleagues, are working diligently to balance all water needs while ensuring protections for threatened and endangered species, including Central Valley winter and spring-run Chinook salmon, Coastal California coho salmon, southern California steelhead, and the southern population of North American green sturgeon. Key concerns for these species include providing adequate cold water for salmon spawning and rearing and maintaining sufficient carryover storage in the event that drought conditions persist. Working with partners, NOAA is applying flexible management measures to meet multiple demands. For example, we recently worked with Sacramento River Settlement Contractors on options to shift a significant portion of their diversions this year out of the April and May period and into the timeframe where Keswick releases are higher to achieve temperature objectives on the upper Sacramento River. This will have benefits for both fish species and agriculture.

In addition to the current Drought Operations Plan, the Administration released a white paper entitled, "Federal Program Support For the California Bay-Delta Region", which describes the wide array of Federal activities and programs across several agencies, that complement the California Water Action Plan and goals for the Bay-Delta and the rest of the State. The white paper is available at: <http://www.doi.gov/news/upload/Federal-Investments-for-the-California-Bay-Delta-Region.pdf>.

Question. Do I have your personal commitment that you will do everything within your authority to exercise maximum flexibility under the law so that more water supplies can be made available to California such that our farms and communities will not bear a disparate burden in the regulation of California's water resources?

Answer. Droughts are hard on everyone, and we concur with the basic tenet that everyone "share the pain" in a drought farmers, urban residents, commercial fisherman, and the species that we work so hard to protect. In this extraordinarily dry year, all water users, including agricultural, municipal, and fish and wildlife uses will suffer hardship. Since December 2013, NOAA Fisheries has worked daily with other State and Federal agencies that supply water, protect fish and wildlife, and

regulate water quality to cope with this serious drought in California. Together, along with our State and Federal colleagues, we have maximized regulatory flexibility to adjust quickly to changes in the weather and environment and bolster water supplies when possible while minimizing impacts to fish and wildlife. Importantly, this rapid intra- and inter-agency coordination has sought to make real-time decisions within the existing regulatory framework rather than waive or overrun applicable law. We share common goals with our Federal and State partners and seek to ensure the best possible use of limited water supplies.

We are currently exploring ways in which we can work directly with water users and apply regulatory flexibilities to help reduce the negative effects of the drought on species listed under the Endangered Species Act (ESA) while also supporting California's agricultural activities. During the drought, water withdrawals from salmon and steelhead-bearing streams and rivers could result in a take under the ESA, and we are looking to work in partnership with individual water users to help them identify steps they can take to avoid the risk of takes. You have our commitment that collectively, with our partners in State and Federal agencies, as well as with other organizations and individuals, we will continue to work to meet health and human safety needs, legal requirements, and conservation objectives.

QUESTIONS SUBMITTED BY SENATOR MARK L. PRYOR

UNFAIR STEEL TRADE PRACTICES

Question. The U.S. Department of Commerce is responsible for conducting anti-dumping (AD) and countervailing duty (CVD) investigations as well as 5-year sunset reviews under Title VII of the Tariff Act of 1930. These investigations are triggered when U.S. companies bring cases against foreign competitors when they dump their products in our market by selling at less than fair value or when they receive government subsidies to undercut U.S. competitors in violation of U.S. trade law. Moreover, these laws are an integral part of "the rules-based international trading system," and they are the last vital defense for U.S. manufacturing against foreign unfair trade.

The first case involves sophisticated, high end steel pipe (Oil Country Tubular Goods) used in drilling for oil and natural gas which was brought against exports from a number of different countries including Korea. Exports from Korea have surged after 2009 when U.S. companies successfully brought a similar case against Chinese manufacturers over dumping the same product. As Chinese exports fell to almost nothing, exports from Korea have surged over the last 4 years. Korea is effectively targeting our market since it does not sell this product domestically or (in substantial volumes) to other nations. Ninety-eight percent of what is produced in Korea is exported directly to the United States.

Currently there are two countervailing duty and antidumping investigations being conducted by the United States Department of Commerce on imports of steel reinforcing bar (rebar) from Turkey and Mexico. Imports from Turkey and Mexico of rebar have nearly doubled from 2011 to 2013. The International Trade Commission recently found that Mexican and Turkish rebar producers are consistently underselling U.S. producers which has resulted in substantial lost sales and depressed prices. In addition, the Department of Commerce made a preliminary finding that the Government of Turkey gives energy subsidies to its rebar industry, but that such subsidies are only *de minimus* in value. You led a letter on this issue that went out this week.

I have been closely following three separate steel dumping cases, one involving high end pipe for drilling and two involving rebar. Both of these cases are now pending before the Department and are critically important to companies and workers in my State. I know you can't comment specifically on any of these cases but I have to tell you that domestic producers in my State are raising a lot of red flags. It is important to me that we get this right since the industry collectively employs over 1,800 people and another 500 contract workers in my State alone.

These investigations are a huge responsibility for the Department and I understand that these cases are extremely resource-intensive. I know domestic companies prosecuting these cases have had difficulty getting complete and accurate information from foreign producers, have complained about repeated extensions of time given to foreign producers to supply information, and about the difficulty U.S. companies then have in litigating dumping cases when they only have access to partial and untimely data.

Question. How many investigators do you have on staff and how many investigators would be assigned to a typical case?

Answer. The Department is fully committed to enforcing our trade remedy laws so that American industries and workers have the opportunity to compete on a level playing field with their foreign competitors. The enforcement of the antidumping duty (AD) and countervailing duty (CVD) trade remedy laws is one of the Department's top priorities. The Department has received numerous steel-related petitions in the past months and it is currently conducting 39 investigations involving steel products from a number of countries. The Department has devoted significant resources to these cases to ensure that unfair trade practices are identified and remedied at the border. Each investigation has unique facts. As such, the number of experts that may be assigned to a proceeding will vary from case to case. Typically, however, a case team will be staffed by 6 to 8 experts.

With respect to the ongoing cases on steel products, including those on oil country tubular goods and rebar, the Department's Enforcement and Compliance Unit, whose primary mission is conducting these trade cases, is focused on these matters and is diligently scrutinizing the information on the record of this proceeding in order to identify the extent of any unfair dumping or subsidization.

Question. Do you have adequate resources to conduct investigations on these matters?

Answer. With respect to the question of whether the Department has adequate resources to conduct these investigations, Enforcement and Compliance currently has approximately 115 international trade compliance analysts, 23 policy analysts, 20 accountants, and 27 legal experts who are tasked with investigating allegations of dumping and unfair subsidization. The Department supports the request of the President as reflected in his budget proposal and will ensure that the vigorous enforcement of U.S. trade remedy laws remains a top priority. The Department will continue to conduct all antidumping and countervailing duty investigations in a thorough transparent manner, in accordance with U.S. law and our international obligations.

Question. In a case like the Korea Oil Country Tubular Goods (OCTG) matter, how many Department of Commerce investigators would travel to Korea to conduct the investigation and how long would they be on site?

Answer. A large portion of the Department's work in an investigation or administrative review takes place in the United States, with the Department analyzing information that foreign producers or exporters provide in response to questionnaires issued by the Department. In addition, in accordance with U.S. law, the Department verifies information relied upon in making a final determination in AD and CVD investigations or the final results of an administrative review if certain requirements are met. Typically, two analysts and two accountants conduct on-site verifications of each responding company's sales and cost of production information. The verification process, which may take one week or more, is designed to focus on a prioritized, cross section of information, and to check the validity of the factual information submitted by the respondent in the questionnaire response and confirm whether the Department can rely on the factual information to make its final determination.

Question. As Secretary of Commerce, will you commit to making enforcement of our trade laws a top priority of the Department?

Answer. Yes. The Department takes seriously the enforcement of our trade laws which provide U.S. manufacturers a means to remedy the market-distorting effects of unfair dumping and subsidization. The Department is fully committed to vigorously enforcing our trade laws and to addressing unfair trade practices in accordance with our statutes, regulations, and international obligations in order to help ensure that U.S. firms and workers have the opportunity to compete on a level playing field.

Question. Will you take the lead—in multilateral and bilateral negotiations in defending, preserving and enhancing U.S. laws against unfair trade, and in opposing any efforts to weaken these laws?

Answer. The Department strongly supports the goal of defending, preserving and enhancing U.S. trade laws. The Department works closely, and will continue to work closely, with the Office of the U.S. Trade Representative to ensure that any bilateral, multilateral or regional trade negotiations pursued by the United States do not undermine the strength and effectiveness of the U.S. unfair trade remedies, so that U.S. manufacturers, exporters, agricultural interests and workers all share the benefits that such trade agreements bring.

REGIONAL INNOVATION STRATEGIES PROGRAM

Question. I am pleased to see that the Department's fiscal year 2015 budget requests \$25 million for the Regional Innovation Strategies Program. This funding is

to be used for both grants and the science park loan guarantees authorized in Section 603 of the America COMPETES Reauthorization Act of 2010. I am also pleased to learn that the Economic Development Administration (EDA) is standing up a loan guarantee program for the science park and advanced manufacturing loan guarantees.

How will this funding be apportioned between the grants and the loan guarantees?

Answer. EDA is currently working to stand up the loan guarantee program, which is a substantial process that includes the development of regulations that will govern program administration. This process is expected to take until late 2015, at which time EDA expects to be able to provide its first loan guarantees. In the meantime, EDA plans to provide competitive grant funding through the Regional Innovation Strategies (RIS) program throughout fiscal year 2015 in order to accelerate the economic impact of the program. Fund apportionment between the grants and loan guarantees will be based on demand for each from potential applicants. At this point, it is clear that there will be a strong demand for grant funding, while demand for loan guarantees will become clearer as EDA moves further along in the program development process throughout 2014 and 2015. EDA will have an outreach campaign to industry and lenders by January of 2015. EDA would be pleased to provide updates on levels of demand for loan guarantees, which will inform the process for funding apportionments between grants and loan guarantees.

Question. What results have been realized from the previous rounds of the I6 and Jobs & Accelerator grants?

Answer. EDA has made a number of planning and implementation investments in science park projects in recent years across the country. For example, last year, EDA awarded a grant to the University of Connecticut, Storrs, Connecticut, to support the development and implementation of a regional economic development analysis and determination of opportunities associated with the 2015 opening of the University of Connecticut's Technology Park, which will promote economic growth opportunities statewide. EDA also provided funding last year to Prairie View A&M University, Prairie View, Texas, to support the development and implementation of the Prairie View Comprehensive Economic Development Strategy through a collaboration of the various academic departments, city officials, and business stakeholders to help establish a science and technology research park as an innovative way to enhance the area's economy.

Question. What is the status of the loan guarantee program? When will it be operational? When will the Department issue a Federal funding opportunity?

Answer. Planning for these programs is well underway, and EDA has consulted with other Federal agencies on best practices for how to implement a successful program. EDA is moving forward with standing up the science park loan guarantee program and the loan guarantee program for innovative manufacturing. A contractor has been hired to help set up the program including identifying staffing needs and providing a detailed timeline of deliverables.

The timeline for standing up the loan program is still in development, so milestone dates are still tentative. EDA expects to have a staff hired and begin outreach to industry and lenders by January of 2015. Outreach will be done through the distribution of marketing materials and outreach to trade associations and lenders. The first loan Commitment is expected to happen by the end of calendar year 2015.

RURAL BROADBAND

Question. As Chairman of the Communications, Technology, Innovation, and the Internet (CTI) Subcommittee, I have jurisdiction over the National Telecommunications & Information Administration (NTIA), which is housed under the Department of Commerce. Bringing high-speed broadband to all rural consumers is vital to the future of the Nation. Broadband is the gateway to the worldwide digital economy, and offer access to world-class education, healthcare, entertainment, and civic engagement.

Under your leadership, how would the NTIA continue to support broadband deployment and adoption as the Recovery Act grant programs wind down?

Answer. The \$4 billion in Broadband Technology Opportunities Program (BTOP) grants in which NTIA has invested are helping to ensure that Americans have the resources and skills needed to benefit from the economic, educational, and civic opportunities the Internet makes possible. Our broadband grant projects have created or saved thousands of jobs while making an immediate economic impact in some of the country's hardest hit communities. BTOP projects have already delivered approximately 112,000 miles of broadband networks; connected more than 21,000 schools, libraries, and healthcare facilities to broadband; and deployed more than

46,000 computer workstations across the Nation. These projects are making a positive difference in the communities they serve and laying a foundation for long-term economic growth.

The President's 2015 budget request builds upon this success by repurposing funds saved from the ramping down of the BTOP grant program. NTIA will continue oversight of existing grants and will utilize our team's expertise to build coalitions and provide needed technical expertise to promote expansion of broadband into communities. For example, our team will continue to collaborate with and provide technical assistance to the network of State broadband leaders and offices like Connect Arkansas, even though our grant funding for the State Broadband Initiative has ended. Our strategy utilizes a public/private partnership concept and builds on the strong working relationships developed with broadband providers, municipal organizations, innovation economy firms, non-profit organizations, foundations, and other Federal stakeholders. By leveraging these partnerships, we will develop national strategies that will encourage communities to elevate their broadband preparedness and innovation readiness, making significant strides toward meeting the Administration's broadband and economic development goals. It also enables better identification of opportunities to empower community leaders and provide them with tools to advance projects which attract new business investments and spur economic growth.

Question. What do you think are the biggest challenges in bringing next generation Internet and communications networks to rural America?

Answer. Geography, population density, cost, and lagging adoption are all significant challenges to bringing broadband to rural communities. The Department is committed to expanding broadband across America as an engine of economic and social growth. The President's 2015 budget request includes repurposing funds for the purpose of working strategically with communities to enable them to fulfill their broadband needs.

BUY AMERICA

Question. Buy America and Buy American are separate legislation and regulation requirements. Buy America applies solely to grants issued by the Federal Transit Administration and Federal Highway Administration. Buy American may be applied to all direct U.S. Federal procurement.

The Buy American Act of 1933 generally requires Federal agencies to purchase "domestic end products" and use "domestic construction materials" on contracts performed in the United States exceeding a purchase threshold.

The Buy America Act which is the popular name for a group of domestic content restrictions that have been attached to grant funds administered by the Department of Transportation (DOT) generally requires that steel, iron, and manufactured products made primarily of steel or iron and used in infrastructure projects be produced or manufactured in the United States.

One of the great ways to put Americans back to work is to invest in U.S. manufacturing and infrastructure. Buy American laws are a proven job creation tool that are broadly supported by the American people and State and local governments.

For too long, too many companies have shipped U.S. jobs overseas. Meanwhile, companies that used to make things and hire people and pay taxes here in the United States continue to lose out on their share of Government contracts.

In the past few years, more than 3 million manufacturing workers have lost their jobs. The Nation's infrastructure needs to be rebuilt. The American Society of Civil Engineers has given U.S. infrastructure a grade of D. Requiring companies to use Federal money to purchase domestic materials and manufactured goods will not harm American workers. Quite the contrary, it will provide much-needed jobs to millions of Americans and will help restore our Nation's economy.

What can the Department of Commerce do to promote Buy American laws?

Answer. The Department of Commerce works closely with the Office of the United States Trade Representative (USTR) to use U.S. domestic content laws to the advantage of U.S. exporters when trying to open government procurement markets abroad. The Trade Agreements Act of 1979 generally prohibits the U.S. Federal Government from procuring goods or services from countries with which the United States does not have a reciprocal government procurement trade agreement. If our trading partners guarantee non-discriminatory treatment in their government procurement market for U.S. goods and services, the United States reciprocates by waiving the Buy American Act for certain procurements in our market.

Question. Why is the Department not demanding more domestic content in the products it buys and the grants it issues?

Answer. The Department of Commerce follows the United States Federal Acquisition Regulations in terms of complying with the Buy American Act and the domestic content requirements prescribed in the Act.

Question. How can Congress strengthen Buy American?

Answer. Whatever action Congress decides to take to strengthen Buy American laws should be consistent with our international trade obligations, as was done when Congress passed the American Recovery and Reinvestment Act of 2009. By having measures consistent with our international trade obligations, the United States avoids trade disputes with our trading partners that would ultimately punish U.S. exporters and workers.

QUESTIONS SUBMITTED BY SENATOR MARY L. LANDRIEU

STEEL DUMPING

Question. Steel producers in my State have alerted me that low priced steel products are surging into the U.S. market, leading to significant declines in production and sales, and ultimately forcing companies to close facilities, lay off workers and cut worker hours. They believe these imports are unfairly traded and have filed trade cases under our dumping and subsidy laws.

However, I am concerned that budget constraints at the Department threaten to undermine the vigorous application and enforcement of our trade laws. For example, over the past several years, the Department has been forced to significantly reduce its efforts to verify the accuracy of information submitted by foreign producers in trade remedy proceedings.

Can you assure me that the Department will vigorously apply and enforce the U.S. trade remedy laws? And do you believe that you have adequate resources to do so?

Answer. The Department is fully committed to enforcing our trade remedy laws so that American industries and workers have the opportunity to compete on a level playing field with their foreign competitors. The enforcement of the antidumping duty and countervailing duty trade remedy laws is one of the Department's top priorities. The Department has received numerous steel-related petitions in the past months and it is currently conducting 39 investigations involving steel products from a number of countries. This figure represents roughly 75 percent of the Department's ongoing investigations and it has devoted significant resources to these cases to ensure that unfair trade practices are identified and remedied at the border. With respect to the ongoing cases on steel products, the Department's Enforcement and Compliance Unit, whose primary mission is conducting these trade cases, is focused on these matters and is diligently scrutinizing the information on the record of these proceedings to identify the extent of any unfair dumping or subsidization.

With respect to whether the Department has the adequate resources to enforce U.S. trade remedy laws, the Department supports the request of the President as reflected in his budget proposal and will ensure that the vigorous enforcement of U.S. trade remedy laws remains a top priority. The Department will continue to conduct all antidumping and countervailing duty investigations in a thorough and transparent manner, in accordance with U.S. law and our international obligations.

Question. Given budgetary constraints, do you agree that the Department should prioritize resources for those offices that have a primary role in investigating dumped and subsidized imports (for example, the office of enforcement and the office of accounting, as opposed to the office of AD/CVD policy)? If not, why not?

Answer. The Department conducts all trade remedy proceedings in a thorough manner, in accordance with U.S. law and our international obligations. Enforcement and Compliance's Office of Policy and Negotiations is an integral part of the Department of Commerce team responsible for investigating allegations of unfair dumping and subsidization, and also provides valuable counseling and guidance to U.S. companies, including small and medium-sized enterprises, that are being harmed by foreign unfair trade practices.

QUESTION SUBMITTED BY SENATOR SENATOR JEANNE SHAHEEN

INTERNATIONAL TRADE ADMINISTRATION-TRANS-PACIFIC PARTNERSHIP (TPP)

Question. Secretary Pritzker, I'm curious to learn more about the role of the Department of Commerce in trade negotiations, specifically the Trans-Pacific Partnership (TPP). As you know, I am very interested in ensuring that manufacturers in New Hampshire and across the country are able to compete on a level playing field

globally, especially in the areas of textile manufacturing and footwear. As the TPP is negotiated, we must ensure that we maintain the competitiveness of these industries in New Hampshire and the United States.

As I'm sure you are aware, Vietnam is pressing for a "relaxed rule of origin" for textiles. This would run counter to the long-held U.S. Government position of supporting a Yarn Forward Rule of Origin, which would require all textile and apparel manufacturing to be completed in countries that are part of TPP. In fact, my colleagues and I in the New Hampshire Congressional delegation feel so strongly that we, as you may recall, sent a letter in February to you and Ambassador Michael Froman about this issue.

Can you explain the Commerce Department's role in ensuring strong textile rules in the TPP, and how your agency interacts with the U.S. Trade Representative to support a TPP outcome that will be beneficial to textile producers in New Hampshire and across the country?

Answer. The Department appreciated hearing from you and your colleagues in the New Hampshire Congressional delegation on this important trade matter. The Department of Commerce's Deputy Assistant Secretary for Textiles, Consumer Goods, and Materials has been intimately involved in each round of these negotiations, working with the Assistant United States Trade Representative (USTR) for Textiles to ensure that the concerns of our domestic industry stakeholders are addressed. The Administration strongly supports the "yarn-forward" rules of origin and is committed to reaching an agreement in the TPP that benefits the textile and apparel industries in all of the partner countries, including our own. The U.S. textile negotiating team includes textile experts from Customs and Border Protection to make sure that the agreements have strong enforcement provisions. The team also works in close consultation with U.S. industry and other stakeholders to develop a responsible approach to tariff elimination that ensures our textile industry will not be competitively disadvantaged. The Department will continue to consult with industry and other stakeholders on matters of concern.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

FISHERIES

Question. The Department plays a primary role in the management of our Nation's marine fisheries. I am especially interested in this because of Alabama's connection to the Gulf of Mexico. Recent reports have suggested there may be lasting impacts on the health of different fisheries following the 2010 oil spill.

What is the Department proposing in 2015 to ensure we understand the long-term impacts of the *Deepwater Horizon* spill and how best to address them?

Answer. The Department is involved in several major initiatives that support the environmental and economic recovery of the gulf following the *Deepwater Horizon* spill.

For the Natural Resource Damage Assessment (NRDA) process conducted under the Oil Pollution Act, the Department, through the National Oceanic and Atmospheric Administration (NOAA), will be working with our State and Federal co-trustees to finalize the analysis of data gathered as part of the NRDA injury assessment and developing appropriate restoration to address oil spill injuries. This process will result in a Damage Assessment and Restoration Plan for which a draft will be presented to the public for review and a final version presented to the Responsible Party as a requirement under Oil Pollution Act.

Regarding how best to address impacts, NOAA, on behalf of the Department, will also be working with the National Fish and Wildlife Foundation and our State partners to fulfill our established role under the Gulf Environmental Benefit Fund. In this role, the National Fish and Wildlife Foundation consults with NOAA for advice in restoration project identification and in maximizing environmental benefits of those projects. NOAA views this advisory role as a key opportunity to support the States to promote a coordinated and successful approach for restoring the gulf.

NOAA is also deeply involved with the RESTORE program. Under section 1604 of the RESTORE Act, NOAA is authorized, in consultation with the U.S. Fish and Wildlife Service, to establish and administer a "Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program" (informally, the NOAA RESTORE Act Science Program). The mission of the RESTORE Act Science Program is to initiate and sustain an integrative, holistic understanding of the Gulf of Mexico ecosystem and support, to the maximum extent practicable, restoration efforts and the long-term sustainability of the ecosystem, including its fish stocks,

fishing industries, habitat, and wildlife through ecosystem research, observation, monitoring, and technology development.

Question. With regards to red snapper fishery in the gulf, will the Department take advantage of current technology such as electronic monitoring and reporting to increase the amount of real-time data it receives to inform management practices for recreational fishermen?

Answer. The Department has made progress on employing electronic reporting for recreational reporting for Gulf of Mexico red snapper, as explained below.

Electronic Reporting on Headboats

On March 5, 2014, the final rule became effective that requires federally permitted headboats in the Gulf of Mexico to submit their logbook data to NOAA Fisheries electronically on a weekly basis. The purpose for shifting from paper logbooks, which were submitted monthly, to weekly electronic reporting was to ensure effort, landings, and discard information of federally managed fish are recorded accurately and in a timely manner. The intent of the rule is to ensure annual catch limits are not exceeded.

Additionally, in August 2013 NOAA Fisheries approved an exempted fishing permit. The exempted fishing permit, which was developed by the Gulf Headboat Collaborative, became effective January 1, 2014. The intent of the exempted fishing permit is to evaluate a new electronic data collection system and test whether an allocation-based management system can more effectively achieve conservation and management goals than the existing management system. A total of 17 for-hire headboats are currently participating in the exempted fishing permit. Vessels are required to have a vessel monitoring system, submit an electronic hail out before every trip via their vessel monitoring system, submit an electronic hail in via their vessel monitoring system before returning to report, and submit an electronic logbook to the SE Headboat Survey on the day of the trip. These electronic reporting requirements are intended to ensure landings are reported in an accurate and timely manner and law enforcement and port samplers have opportunities to inspect and validate reported landings.

Electronic Reporting on Charter Boats

The South Atlantic and Gulf of Mexico Fishery Management Councils have established a joint technical committee to develop recommendations on how to best achieve an electronic reporting system for charter vessels. The committee will hold its first meeting in late May and its recommendations will be provided for the Councils' consideration by December 1, 2014. Meantime, Federal scientists and managers have collaborated to prepare a white paper that outlines a range of program objectives and alternatives for meeting those objectives to serve as a starting point for the committee's deliberations. Decisions by the Councils and the Department on the use of electronic reporting in the charter fleet for red snapper and other recreationally important species will be informed by these recommendations.

Pilot Studies Using Electronic Reporting for Pulse Fisheries

The baseline Marine Recreational Information Program (MRIP) surveys conducted by NOAA Fisheries and its partners are designed primarily to obtain reliable estimates of annual catch and effort for unit stocks of our most important recreational fisheries. Fisheries such as gulf red snapper that are intensively prosecuted for short time periods ("pulse" fisheries), or those that are infrequently encountered in our sampling ("rare event" fisheries), are sampled by the MRIP baseline surveys, but the results are not usually available until the season is well under way or even ended. Moreover, the catch estimates for small geographic areas or short time intervals may not be sufficiently precise to meet the needs of managers. Recognizing this, the NOAA Fisheries MRIP program is conducting a series of workshops with Gulf of Mexico management partners to develop and test a number of methods, including modification of the current MRIP survey design, which may enable collection of supplemental red snapper catch data that better fits the needs of the region's managers.

MRIP has agreed to fund three pilot projects this year two in Alabama and one in Texas that will use electronic reporting technology to obtain in-season data on red snapper catch. We believe that testing these three designs, and others in Florida and Louisiana that were reviewed in the workshops, will result in identification of workable approaches to supplemental data collection that are more timely and better suited to the challenges of red snapper and similarly managed fisheries in the future.

TRADE

Question. Secretary Pritzker, the Administration is pursuing an aggressive trade agenda. This requires resources to ensure we maintain a strong position during negotiations, but also tremendous resources in the future to enforce and oversee the agreements reached.

How will closing out a major trade deal such as the Trans-Pacific Partnership impact the Department's future budget proposals?

Answer. The Department of Commerce's International Trade Administration (ITA) plays a critical role in supporting the negotiation, implementation, and successful operation of trade agreements. Specifically, ITA works to:

- represent the interests of exporters and investors during negotiations;
- engage our trading partners on implementing the agreement's guarantees of market access and fair treatment;
- monitor an agreement's operation to ensure those guarantees are being upheld; and
- conduct outreach on the agreement to promote exports and investment.

The Department is therefore constantly assessing its resource needs so that ITA will be able to fulfill its mission in these respects, and to ensure that U.S. industry is receiving the full benefit of the United States' trade agreements.

Question. Does the Department consider the future resource needs required by new trade deals before entering into new trade negotiations?

Answer. The Department continually endeavors to ensure that it is able to carry out its mission with respect to trade agreements, including planning for both new trade negotiations and the implementation and monitoring of those agreements already in place.

TRADE—ECONOMIC DEVELOPMENT ADMINISTRATION

Question. Secretary Pritzker, the Administration is pursuing an aggressive trade agenda. This requires resources to ensure we maintain a strong position during negotiations, but also tremendous resources in the future to enforce and oversee the agreements reached.

With such an ambitious trade agenda, why has the Department proposed cutting support for programs that help American businesses deal with the impacts of trade agreements, such as the Economic Development Administration's (EDA's) Trade Adjustment Assistance (TAA) program?

Answer. The Department of Commerce is committed to ensuring that we provide assistance to American trade impacted communities and firms. The lowered funding is a result of working to achieve the best and most balanced allocation of fixed dollars in EDA's budget across all of its program areas to achieve the best return on investment and greatest impact for the communities we serve. To improve the TAA program, EDA is establishing a process where the Trade Adjustment Assistance Centers (TAACs) will be required to compete on merit for TAA funding. EDA is also working with TAACs to achieve greater efficiency and cost savings. In addition, EDA is able to help trade-impacted communities and firms through its Economic Adjustment Assistance Program, thereby potentially reducing the need for TAA funds. Economic Adjustment Assistance is EDA's most flexible program and is critical to the agency maintaining its ability to effectively and efficiently respond in real time to economic dislocations as they occur, including trade impacts.

POLAR SATELLITE PROGRAM ROBUSTNESS

Question. There exists a real risk for catastrophe should JPSS-1 fail. I find it unacceptable that a program so critical to the safety of our Nation should be one failure away from catastrophe.

Secretary Pritzker, what is the Department proposing in its 2015 budget to increase the robustness of the JPSS program to ensure that NOAA can fulfill its weather forecasting mission in the event of a failure?

Answer. The Administration remains focused on increasing the robustness of our polar orbiting weather satellite program and mitigating the potential impacts to NOAA's National Weather Service (NWS) forecasts, services and products in the event a gap materializes. The fiscal year 2015 President's budget allows NOAA to do three things to increase the robustness of the polar program. First, the budget provides sufficient funds to ensure the primary satellite providing operational weather data in the afternoon polar orbit, Suomi NPP, is operated and managed to maximize the length of its mission life. Second, the budget keeps the JPSS-1 spacecraft on track to launch no later than the second quarter of fiscal year 2017. Finally, the budget allows the JPSS program to purchase additional, critical long lead sub-

assemblies and parts to support the build of spare ATMS (Advanced Technology Microwave Sounder) and CrIS (Cross-track Infrared Sounder) instruments, while also protecting the accelerated JPSS-2 schedules. These two instruments ATMS and CrIS are the most critical to the NWS.

The Department recognizes the need to build robustness into the JPSS program to maintain observations in the event of a loss of a satellite in the afternoon polar orbit. The formulation and acceleration of follow-on missions is a critical component of NOAA's strategy to reduce the likelihood of a gap in satellite data through a more robust JPSS architecture. NOAA is looking at recommendations made by the NESDIS Enterprise Independent Review Team's (IRT) for a robust polar follow-on program and a Gap Filler mission to guard against a gap in polar data beyond JPSS-1. The Administration acknowledges that the first step in any decision is the procurement of long lead parts for ATMS and CrIS as quickly as possible.

SATELLITE GAP MITIGATION

Question. The Commerce IG and GAO anticipate a gap in critical data from polar orbiting satellites. This would be detrimental to the safety of millions of Americans. This is an issue we discussed with your predecessor last year and unfortunately, I have not seen any movement by the Department that indicates steps have been taken to address the potential gap. Great focus has been placed on redundancy but the same cannot be said for closing or eliminating the gap.

Would you describe how the Department's 2015 budget proposal would mitigate the impacts of a gap in polar satellite data?

Answer. The most important way to mitigate a gap in polar satellite data is to increase the robustness of the Nation's polar orbiting weather satellite program. The fiscal year 2015 President's budget allows NOAA to do three things to increase the robustness of the polar program. First, the budget provides sufficient funds to ensure the primary satellite providing operational weather data in the afternoon polar orbit, Suomi NPP, is operated and managed to maximize the length of its mission life. Second, the budget keeps the JPSS-1 spacecraft on track to launch no later than the second quarter of fiscal year 2017. Finally, the budget allows the JPSS program to purchase additional, critical long lead sub-assemblies and parts to support the build of spare ATMS (Advanced Technology Microwave Sounder) and CrIS (Cross-track Infrared Sounder) instruments, while also protecting the accelerated JPSS-2 schedules. These two instruments ATMS and CrIS are the most critical to the NWS.

The fiscal year 2015 budget supports NOAA's contribution to the Global Navigation Satellite System Radio Occultation (GNSSRO) program, an important step to mitigate the impacts of a potential gap in polar satellite data on the NWS forecasts, products and services. GNSSRO, a partnership among NOAA, NASA, U.S. Air Force, Brazil and Taiwan, will provide high quality radio occultation data globally. Radio occultation data improves the NWS's models and helps to calibrate all other available sources of polar data. High quality radio occultation data was found to be an extremely important mitigator to the effects of a gap in polar data in the 2013 Riverside report on the subject.

In fiscal year 2015 NOAA continues to execute and leverage Gap Mitigation projects funded through the Sandy Supplemental appropriation (Public Law 113-2). These projects are essential in NOAA's efforts to mitigate the impact from the potential loss of JPSS-1 data from several standpoints: Observations, Modeling and Supercomputing. They expand NOAA's Weather and Climate Operational Supercomputing System (WCOSS) capacity to fully exploit observational and model improvements and support the use of satellite Atmospheric Motion Vectors, cloud-impacted satellite sounding data, the Department of Defense Special Sensor Microwave Imager (SSM/I) instruments, advanced imagery from Geostationary Operational Environmental Satellite-R Series (GOES-R Series), and an increased amount of aircraft data to enhance NOAA's Global Forecast System (GFS), to name a few. These Gap Mitigation projects ensure that the NWS has the ability to support improved GFS products in event of a JPSS-1 failure.

These projects would only provide limited substitute for the type and quality of data that the JPSS satellites provide for NWS numerical weather prediction. The fiscal year 2015 President's budget request for NOAA's satellite acquisition programs ensures that they remain on schedule, within cost, and are launched on time to provide support to the Nation's weather enterprise.

Question. Is there an actual plan to fill a gap or are you simply analyzing options to mitigate the gap?

Answer. NOAA is actively planning to reduce the risk of a gap; however, there is no viable option for accelerating the launch of JPSS-1 at this time. However,

Suomi NPP now serves as the primary operational polar-orbiting spacecraft for NOAA's operational weather forecasting mission and is being operated and managed to maximize the length of its mission life. Additionally, there are legacy NASA and NOAA satellites that are operating beyond their design lives that are still returning quality observations, and which we expect to provide mitigation in the event of an unexpected premature failure of Suomi NPP or on launch failure or early failure soon after launch of JPSS-1. The improved use of existing satellite observations and development of advanced data assimilation techniques should lessen, but not eliminate, a gap's impact on NWS product quality.

The Department of Commerce agrees with the November 2013 IRT report that the current polar satellite program is not robust. NOAA and NASA are currently analyzing options to minimize the length of time in which the polar program is "one failure away from a gap" and to mitigate a gap, should one occur. The intent of this analysis is to determine the most viable options for bringing the program to a more robust posture as soon as possible.

This budget invests the resources needed to take the first critical steps to building robustness into the polar satellite program by beginning the purchase of copies of additional, critical long lead sub-assemblies and parts to support the build of spare ATMS and CrIS instruments.

Question. Is the Department still considering obtaining satellite data from other countries if there is a gap? If so, does that mean that the United States would be dependent on countries such as China or Russia for data?

Answer. The Department already obtains critical polar-orbiting weather satellite data from our international partners including the European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) and the Japan Meteorological Agency (JMA) and Japan Aerospace Exploration Agency (JAXA).

The Department is not planning to obtain data from Chinese or Russian weather satellite programs to mitigate the gap. NOAA's reliance on certain international partners for weather satellite data, critical to the protection of life and property in the United States, is an Administration decision.

CENSUS

Question. The budget request includes an increase in funding for the 2020 Census. Most of this increase is tied to investments that, it is argued, will produce substantial savings over the entire 2020 Census effort. However, the Department had a similar plan for the 2010 Census that resulted in lost investments worth hundreds of millions of dollars and an increase to the overall cost of the Census by more than a billion dollars as the 2010 Census returned to a paper-based non-response follow up.

How confident are you that the proposed investments for the 2020 Census will actually save money?

Answer. We are confident that we can save money in 2020 Census compared to the 2010 cycle provided we receive the resources required in fiscal year 2015 for the research, testing and development program.

This Administration is committed to conducting the 2020 Census at a lower cost per household than the 2010 Census while maintaining high-quality results. The Census Bureau updated the lifecycle estimate to accompany the fiscal year 2015 request. The preliminary estimate shows we could realize a savings of at least \$5 billion from the cost of repeating the 2010 Census design. However, we must prove that these design changes will realize cost-savings through our research and testing program.

The potential design-change activities include:

- targeting our address canvassing operations to areas experiencing change not already reflected in our address list;
- optimizing self-response to include the use of the Internet and other communications innovations;
- re-engineering field operations using automation, case routing, and other techniques; and
- using administrative records to reduce workload.

Savings ranges associated with these design options are shown in the updated lifecycle estimate presented in the fiscal year 2015 budget request. While the research we've done so far shows such savings are possible, there is still uncertainty. We need to complete the research planned for fiscal year 2015 to demonstrate that this redesigned census will work and that savings can be achieved.

Our research program is not strictly focused on how to save money; there are other benefits to this program. Innovation will allow us to contain costs while maintaining the high quality census that the country demands. Obtaining a complete and

accurate census every 10 years becomes more complex and difficult with each successive cycle. For the 2020 Census, a larger, more diverse population will be more difficult and expensive to count. While we can reduce costs per household considerably by utilizing advances in technology and innovations in the design of the decennial census, there is a point at which reducing costs could lead to a significant reduction in the quality of census data. The 2020 research and testing program will help us gain a better understanding of this trade off, so we can contain costs without sacrificing coverage and data quality, and so we can share this information with the Congress and other stakeholders.

IT projects and acquisition strategies are regularly reviewed by governance bodies like the Department of Commerce's Information Technology Review Board and Acquisition Review Board respectively.

Question. What controls have you put in place to ensure that taxpayers will not be presented with another billion dollar bill at the last minute?

Answer. From the standpoint of the 2020 Census program as a whole, to ensure that we stay on track with these cost-saving design-change efforts, we have completed the high-level baseline 2020 Census Schedule and detailed baseline schedules for the research and testing program including those for the 2014 Census test and will continue to mature the integrated master schedule. The 2020 Census Risk Review Board, which has representation from across the Census Bureau monitors program-level risks and develops mitigation plans for those risks. Additionally, the Economics and Statistics Administration and the Department of Commerce provide oversight to ensure the Census Bureau is on track with the research and testing activities that will drive the major design decisions.

Regarding our approaches to information technology management, in order to avoid a repeat of the issues that the program experienced in the 2010 Census, which led to late decade census design changes and cost increases, the Census Bureau has been taking a more rigorous approach to information technology management, program management, and risk management. This approach is informed by the lessons we learned in the 2010 Census but also anticipates the environment of the 2020 Census.

With respect to technology management, the Bureau has implemented IT portfolio management and a strong partnership between the Chief Information Officer and the Associate Director for Decennial Census Programs. In this collaboration, leaders are making decisions about information technology to reduce both cost *and* risk compared to the 2010 Census.

The Bureau believes using off the shelf technology greatly reduces risks of failure. We also believe use of agile development approach to systems development (currently employed by the Census Bureau and our contractors) will ensure requirements are being met.

The Department of Commerce is working with the Census Bureau to implement an open and transparent acquisitions process that starts in the planning phase of the project lifecycle, is consistent and repeatable, and applies to solutions regardless of whether they leverage in-house resources or major contracts. In addition, adapting program management and system engineering disciplines and best practices including risk, scope and cost management will help avoid the problems associated with the purchase of handhelds for the 2010 Census. These practices were put in place for the 2010 data capture system, which was cited by GAO as an exemplary IT investment.

As part of the efforts to improve the 2020 Census, the Census Bureau is taking advantage of technology and operations research methods to re-engineer the field data collection operations reducing both the infrastructure required to support these operations and the actual hours that enumerators spend collecting the data.

The Census Bureau is field testing automation throughout the research period in order to identify and mitigate risks associated with technology issues. The enumeration instrument prototype will be used in 2014 and 2015 Census testing. The Census Bureau has instituted a mobile computing strategy for all current surveys and the 2020 Census.

In addition to these efforts within the 2020 Census itself, the fiscal year 2015 budget proposes an initiative to bring an enterprise approach to data collection and processing. This Census Enterprise Data Collection and Processing (or, CEDCaP) initiative will change the past practice of building new and unique data collection processing systems for each survey or census including the decennial census. Instead, the Census Bureau will build a "system of systems" that offers shared data collection and processing services across the enterprise. This system will both precede and outlast the 2020 Census and will provide a solution that is mature and proven for the 2020 Census at an estimated cost lower than the cost of the 2010 Census.

The program management discipline is not limited to the information technology aspects of the program. The entire 2020 Census program applies industry best practices for program management including the preparation and progressive elaboration of detailed cost estimates for the lifecycle of the census, and a well-established risk management process. As part of the risk management process, the program creates and executes risk mitigation plans to reduce the likelihood of these risks including those with large budget impacts. As the design decisions mature the risk management will mature to include assigning costs to any potential contingencies. These risk management practices will help us identify the sources of potential cost increases, so we can address these issues at the source and keep the budget impacts to a minimum should they occur.

Another best practice is to conduct regular program management reviews open to stakeholders to increase the transparency of the program. This commitment to transparency will raise issues earlier in the program when they are easier and less costly to solve. Since December of 2012, the 2020 Census program has conducted quarterly day-long Program Management Review meetings with key internal and external stakeholders, including representatives from the Economics and Statistics Administration, the Department of Commerce, GAO, OIG, OMB, both House and Senate oversight and appropriations committees, and the National Academy of Sciences. IT projects and acquisition strategies are regularly reviewed by governance bodies like the Department of Commerce's Information Technology Review Board and Acquisition Review Board. These meetings provide an opportunity to keep these stakeholders informed and to gain their input and suggestions about plans, issues, and research results. Towards the same ends, the 2020 Census program also has been actively engaged with the Census Bureau's Scientific Advisory Committee, its National Advisory Committee (including its working groups focused on key issues such as use of administrative records, privacy, and improvements to the Census questions on race and ethnicity), and a panel of experts at the National Academy of Sciences.

All of these efforts are aimed at improving the quality of our programs and their results, and reducing the risks of those things that can lead to cost over-runs or bad outcomes, e.g., poor requirements definition, inaccurate cost estimates, or insufficient engagement with stakeholders (and thus poor understanding of their needs and goals).

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

Question. NTIA serves a primary role as the representative of the United States on the Internet Corporation for Assigned Names and Numbers (ICANN) Governmental Advisory Committee (GAC).

Over the past year, how has NTIA represented the interests of our Nation in protecting American companies, consumers, and intellectual property?

Answer. Within ICANN's multi-stakeholder structure, the Governmental Advisory Committee (GAC) provides governments a meaningful opportunity to participate in the development of policies related to Internet domain name system (DNS) issues. NTIA represents the U.S. in the GAC, and has actively engaged with its counterparts in the GAC to develop consensus advice to ICANN. ICANN improved the new generic top-level domain (gTLD) program by incorporating a significant number of proposals from the GAC, such as providing law enforcement and consumer protection authorities with significantly more tools to address malicious conduct, as well as enhanced mechanisms to protect intellectual property rights in new gTLDs.

Over the course of three ICANN meetings in 2013, NTIA coordinated U.S. proposals covering a broad range of safeguards intended to mitigate against consumer harm and criminal abuse of the DNS, a majority of which were adopted and submitted as consensus GAC advice to ICANN (also known as the April 2013 GAC Beijing Communique). In this context, NTIA has actively engaged in consultations with a broad range of commercial interests. Ensuring the protection of the rights of trademark owners and ensuring appropriate consumer protections as the new gTLD process moves forward has been a priority over the course of NTIA's advocacy efforts to develop appropriate safeguards for new gTLDs. NTIA also contributed to the development of GAC consensus advice in the June 2013 Durban and November 2013 Buenos Aires Communiques that provided additional specificity to protect consumers and businesses in the new gTLD program. As a result of these efforts, ICANN updated the new gTLD Registry Agreements to address government concerns.

Finally, over the last year NTIA Assistant Secretary Strickling personally participated in ICANN's Accountability and Transparency Review Team (ATRT) with a broad array of international stakeholders from industry, civil society, the Internet

technical community, and other governments. This team serves as a key accountability tool for ICANN by evaluating progress and recommending improvements to ICANN's accountability, transparency, and technical competence. ICANN is currently implementing the 12 recommendations the ATRT made last December.

Question. In what ways has NTIA altered its activities in dealing with ICANN via the Governmental Advisory Committee to be a stronger advocate for U.S. business?

Answer. As described above, NTIA has constantly been a strong advocate for U.S. interests serving as the United States GAC representative. Specific activities over the past year are detailed in the response to the previous questions. NTIA has strengthened its outreach to U.S. businesses as new gTLDs are vetted and introduced to ensure a more complete understanding of business issues and stronger advocacy for U.S. businesses.

INTERNET POLICY CENTER

Question. Can you explain how the Internet Policy Center (IPC) differs from the current activities NTIA performs for the Federal Government?

Answer. The open Internet is a key driver for U.S. innovation and economic growth. It is therefore imperative that U.S. Internet policy remain forward-looking in its ability to balance innovation, resilience, privacy, rights protection, and security. Much is at stake: billions in trade, innovation, privacy, free expression, child protection, and the integrity of the Internet. NTIA currently undertakes significant coordination activities among Federal agencies as well as other Internet stakeholders in order to develop Administration policy; however, NTIA's capacity has not scaled to match the current pace and complexity of policy issues that have the potential to impact the Internet and its ability to function as a platform for economic growth and the future digital economy. The Internet Policy Center (IPC) will provide NTIA with the resources to build capacity to face the challenges of today's digital policy environment and to convert ad-hoc functions into institutionalized mission areas. Among the functions of the IPC will be policy analysis, policy development, global outreach, interagency coordination, and stakeholder engagement.

NTIA is unique among Federal agencies in that part of its mission is to support, enhance, and protect the Internet as an engine of economic growth, innovation, and job creation. In that capacity, the IPC will focus on the Internet as a client. The IPC will provide the organizational capacity, structure, and means to protect U.S. Internet policy principles and equities across a range of fast-moving issue areas including privacy, cybersecurity, the free flow of information, Internet governance, network evolution, intellectual property, broadband and infrastructure development, and law enforcement. Through the IPC, the Administration will be better positioned to present a unified focus on Internet policy and provide the capacity and leadership to address a multitude of Internet policy concerns domestically and internationally in a more proactive, proficient manner than is currently possible.

Question. Do any of the activities planned for the IPC currently reside in different locations within the Federal Government and if so, how will they transition to NTIA?

Answer. The IPC would not displace or replace any activities or authorities of other Federal agencies, but would serve to complement and coordinate these activities more effectively to ensure a unified and strategic Administration voice. The need for focused policy attention to protect and promote innovation, stability, and economic growth on the Internet is critical. Without it, there is a much greater risk that U.S. policy will perhaps unintentionally harm the ability of companies to innovate and thrive and citizens to take full advantage of the Internet and other communication and information services. In a broad array of policy areas including cybersecurity, intellectual property, trade policy, and others, well-staffed agencies of the U.S. Government pursue their discrete policy objectives, but those agencies are sometimes not well equipped to evaluate the full impact of their initiatives on Internet innovation, the digital economy, fundamental rights, and on the global, multi-stakeholder approach to Internet governance and policymaking. The IPC will advocate strongly within interagency discussions for the Internet as a platform to be protected and promoted.

Question. Do any of these activities require a change in statute or authorization legislation in order to become a part of the IPC?

Answer. No.

PROFIT FOR CONSTRUCTED VALUE

Question. The Department has traditionally used a high profit benchmark to measure the fair value of merchandise in dumping cases. This better reflects the

true value of merchandise in question. However, in the case of South Korean merchandise, a low measure of profit, based in large part on non-Oil Country Tubular Goods (OCTG) pipe sales was used. In addition, the measure was based largely in the depressed construction market instead of the more profitable energy sector, or an average of the two.

Why did the Department alter its traditional measure in reaching a conclusion in this case?

Answer. With respect to this very technical issue, the Department carefully applied the statute and its regulations to the record evidence presented at the time of the preliminary determination. In this case, because neither Korean exporter had what the Department's regulations refer to as a viable home- or third-country market in OCTG, the Department was unable to use the preferred methodology for calculating profit, i.e., these companies' own experience in the OCTG sector. U.S. law sets forth three alternative approaches to calculating profit in such cases, and the Department selected what it believes to be the most reasonable alternative based on the available record evidence. The Department continues to analyze this issue and will consider all evidence and arguments in issuing its final determination.

Question. What was the Department's basis for choosing the construction market as opposed to the energy sector or an average of the two sectors?

Answer. As noted above, because the facts in this investigation did not allow the application of the Department's preferred methodology, all alternative options available under the statute were considered. Since the Department does not have useable profit data for these companies' OCTG sales, one alternative specified in the statute is to use the profit figures for "the same general category of products." In this case, that would entail a broad range of tubular products, including those sold to the construction segment. If that is not appropriate, the statute also provides for the Department to use "any reasonable method" to value profit. The Department continues to evaluate the suitability of these profit figures for the final determination.

OIL COUNTRY TUBULAR GOODS

Question. Secretary Pritzker, the International Trade Commission (ITC) recently made a preliminary determination that the American steel industry was materially injured by certain Oil Country Tubular Goods (OCTG) imports from South Korea.

What actions are being undertaken by the Department to assist in reaching a final determination on this matter?

Answer. The Department's Enforcement and Compliance Unit, which has as its primary mission the conduct of antidumping and countervailing duty cases, is focused on this matter. Our analysts recently traveled to South Korea to verify the information that the respondents in this case placed on the record of the proceeding. Please be assured that the Department will carefully analyze all the record evidence, and consider the legal arguments of the parties, before issuing a final determination in this matter, which will be announced no later than July 11, 2014.

Question. What resources are being utilized to support the final investigatory phase?

Answer. Our Enforcement and Compliance Unit's accountants, analysts, and lawyers are diligently scrutinizing the information on the record and considering the legal arguments from all parties. Further, in accordance with U.S. law, analysts and accountants in our Enforcement and Compliance Unit recently traveled to South Korea to verify the accuracy of the factual information submitted by the Korean exporters.

AFFILIATIONS

Question. The issue of *affiliations* is critical in this dumping investigation. The Department acknowledged concerns with a number of affiliations and uncertainty in whether the correct sales and cost databases were used for its preliminary determination.

Can you assure the Committee these issues will be completely and fully investigated prior to a final determination?

Answer. Yes. All information submitted by the two Korean exporters in this matter has been subject to rigorous verification by the Department analysts and accountants to ensure they have reliable sales and cost-of-production data. The Department's findings will be included in reports it will place on the record, and parties will have an opportunity to comment upon those findings prior to the issuance of the final determination.

SOUTH KOREAN MANUFACTURERS

Question. Additional concerns have been raised suggesting South Korean manufacturers are misrepresenting facts in this case on a variety of issues. This includes information regarding grades and costs of hot rolled coil used, sales made from inventory, the presence of affiliated warehouses, warehousing costs, as well as overhead.

Madame Secretary, I understand that while preliminary investigations rely heavily on the responses of the parties involved, the final phase allows for the Department to deploy much greater resources to determine whether concerns raised in the preliminary phase could significantly change the findings.

Can you assure me that the Department will dedicate sufficient resources needed to ensure a fair and equitable resolution to this case?

Answer. Yes. The Department conducts all trade remedy proceedings in a thorough manner, in accordance with its statute, regulations, and international obligations. The Department is fully committed to vigorously enforcing its trade remedy laws so that American industries and workers have the opportunity to compete on a level playing field with their foreign competitors.

Question. Further, can you assure me that concerns raised during the preliminary phase will be properly considered?

Answer. Yes. The Department's Enforcement and Compliance Unit will diligently scrutinize all information on the record and consider the legal arguments from all parties before issuing its final determination.

 QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

FISHERIES

Question. First, I would like to thank the Department and NOAA for the support it has provided to the Penobscot River Restoration project (over \$20 million). It is my understanding that this project has raised more private dollars than any other river restoration project in the country. Through the work of the State, the Penobscot Trust, and NOAA, and other Federal agencies, we are on the cusp of completing what could be one of the largest and most successful fisheries restoration efforts in history.

Across the Gulf of Maine, the restoration of sea-run migratory fish species is essential to rebuilding a thriving ocean fishery and healthy river communities. NOAA's investments in projects like the Penobscot River Restoration are essential to that goal.

Completing restoration projects such as this is possible when NOAA ensures that funds allocated within the Fisheries Habitat Restoration and Species Recovery lines go to projects on the ground (and in water!).

The Penobscot River Restoration Agreement has three main components: the removal of the Great Works Dam, the removal of the Veazie Dam, and the construction of a bypass of the Howland Dam. The first two components are complete; the third is pending. It is important to me and to my constituents that NOAA remain committed to seeing through the full implementation of the Penobscot River Agreement. If NOAA is not able to commit to the agreement, which includes the building of a fish bypass, then the work that was celebrated at the removal of the Great Works and Veazie dams will be incomplete, and the fisheries benefits will not be maximized.

Will you ensure that NOAA will work with the State of Maine, the communities along the Penobscot River, including the Town of Howland, and the Penobscot Trust to ensure that the Agreement is fully implemented by fiscal year 2015?

Answer. The Department recognizes the importance of the Penobscot River Watershed Restoration project, which will ultimately improve access to nearly 1,000 miles of river habitat to eleven species of sea-run fish and create new community and economic benefits throughout the watershed. NOAA remains committed to seeing through the full implementation of this important restoration initiative. NOAA is currently working with the State of Maine, Town of Holland, the Penobscot Trust, the Penobscot Indian Nation and our Federal, local and non-profit partners to develop final plans for the Howland Dam restoration project, and anticipates moving towards implementation soon.

INTERNATIONAL TRADE ADMINISTRATION—U.S./CANADA

Question. The 2006 U.S.-Canada Softwood Lumber Agreement was set to expire in 2013, but was extended to October 12, 2015. Some of my constituents have ex-

pressed concern about another extension of this agreement. They would much prefer to see an updated long-term agreement executed.

The world timber and lumber markets have evolved since 2006. As you are well aware, the U.S. housing market collapse has taken a toll on workers in the timber industry. The Maine Forest Products Council estimates that we have lost more than 4,000 forestry jobs in my State from 2007 to 2011, for a number of reasons. As the housing industry recovers, and domestic demand for wood products starts to rise, we must ensure an unbalanced playing field between U.S. and Canadian producers does not cause more jobs to be lost. That is why we need to secure an updated long-term Softwood Lumber Agreement.

Will you commit to develop an agreement between the United States and Canada, with the active involvement of the Maine and U.S. forestry stakeholders, with an aim to bring about a new, long-term durable U.S.-Canada trade agreement on softwood lumber?

Answer. The 2006 Softwood Lumber Agreement (SLA) is the most successful of several agreements reached over the past three decades to address U.S. concerns about Canadian softwood lumber imports. The recent extension until mid-October 2015 was made with the support of domestic lumber producers, and the SLA continues to provide predictability and stability in this very important sector in the U.S. economy.

Over the years, Commerce has worked closely with several other agencies on the negotiation and administration of the SLA. The Office of the United States Trade Representative (USTR) leads an interagency team of experts from Commerce, State, Justice, and Customs and Border Protection (CBP) that devote significant time and resources to the enforcement and implementation of this agreement. Because Commerce's members of this team are very knowledgeable about provincial forest practices and subsidy programs that benefit Canadian lumber producers, their technical expertise is relied upon heavily as part of the interagency team in dealing with our Canadian counterparts, consulting stakeholders, and defending U.S. interests in arbitrations under the Agreement. We will continue to provide our support as USTR consults with Members of Congress and seeks input from all interested stakeholders for the evaluation of what is in the best interest of the United States.

In the meantime, I assure you that Commerce will continue to press for and work to ensure the full enforcement and implementation of the current agreement.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

MANUFACTURING INITIATIVE

Question. The budget provides \$141 million, a \$13 million increase over the fiscal year 2014 enacted level, for the Hollings Manufacturing Extension Partnership (MEP), with an increased focus on expanding technology and supply chain capabilities to support technology adoption by smaller manufacturers to improve their competitiveness.

The budget also provides \$15 million for the Advanced Manufacturing Technology Consortia (AMTech), a public-private partnership that will support industry-led consortia developing technologies to address major manufacturing challenges faced by American businesses. The Administration has also launched four manufacturing institutes to date and is planning to launch at least four additional manufacturing institutes in 2014 utilizing existing Federal funding.

Your overall manufacturing initiative will create winners and losers across the country. Twelve communities will be selected this year and they will have the full force of the administration behind them. You will use existing authority to fund the program activities. Alaska will not fare well. This is on the back of significant cuts over the last few years in the EDA budget.

When small communities are doing good work and developing innovative ideas to move their economy forward, grant and low interest loan programs should support such initiative. So for Kotzebue, Alaska looking to lower the cost of food to outlying villages or Wrangell, Alaska completing a remarkable marine park for fishing and other boat fleets, I am at a loss for where to send them when looking to complete a financial package.

Secretary, outside of these 12 communities this year, how will you provide support to rural, isolated communities doing good work and striving to create integrated economic development plans on a small scale?

Answer. The Department of Commerce has not wavered in its commitment to rural America. In fiscal year 2013, as part of the Investing in Manufacturing Communities Partnership (IMCP) effort, EDA provided \$1.8M (of approximately \$4 mil-

lion total) in assistance to 12 rural communities (of 26 total communities) to develop implementation strategies, which will initiate public-private partnerships tailored to local expertise and assets, identifying targeted industries and specific public investments that will enhance the attractiveness of regions to private investment.

EDA also provides ongoing planning support to rural communities as part of its Partnership Planning program. These grants facilitate the development and implementation of Comprehensive Economic Development Strategies (CEDS), which articulate and prioritize the strategic economic goals of recipients' respective regions. Partnership Planning grants are made to the designated planning organization (e.g., District Organization) serving EDA-designated Economic Development Districts (EDDs)—of which there are currently 383 across the country—to enable these organizations to develop and implement relevant CEDS. Almost all of these Districts include, and most are primarily comprised of, rural areas. In addition, EDA provides Partnership Planning grants to Indian Tribes to help develop and implement CEDS and associated economic development activities. The Planning program also helps support planning organizations, including District Organizations, Indian Tribes, and other eligible recipients, with focused short-term planning grants designed to guide the eventual creation and retention of higher-skill, higher-wage jobs, particularly for the unemployed and underemployed in the Nation's most economically distressed regions including many rural areas (EDA's Local Technical Assistance program supports these efforts as well).

In addition, EDA-funded University Centers (approximately 60 across the country) provide business solutions and technical assistance to public- and private-sector organizations, and conduct other activities with the goal of enhancing regional economic development. University Center business solutions include basic and applied research, market research, feasibility studies, product development, strategic and financial planning, seminars and training, and management consultations. The University Centers are particularly attractive to rural communities and regions that often lack the capacity and resources to collect and analyze information and data on the economic conditions of their respective areas.

EDA construction investments in rural America since fiscal year 2009 are expected to save or create 37,000 jobs. EDA, in conjunction with other Federal agencies, devoted \$9 million in total Federal funds for the Rural Jobs and Innovation Accelerator Initiative which invested in 13 best-in-class economic development projects in rural regions. Making sure more rural businesses of all types and sizes can compete in the global economy is an important step toward integrating trade into the DNA of our economy and creating opportunity for all Americans.

Ensuring that more rural companies can capitalize on international opportunities to grow their business is key to advancing economic growth in rural areas and a strong rural economy is essential to our Nation's overall economic health. Through the International Trade Administration, we are working with the White House Rural Council, U.S. Department of Agriculture (USDA), other agencies, and partners to:

- Host five regional forums to provide rural leaders and businesses with local connections and information about resources to help expand exports. (The Council will announce forum locations in the coming weeks.)
- Provide enhanced export counseling for rural businesses from trade specialists in over 100 domestic locations, using the convening power of USDA field staff.
- Train USDA Rural Development staff in all 50 States plus territories to expand the network of business counselors able to identify export-ready rural businesses and connect them with assistance.
- Coordinate across the Administration to promote rural-produced goods and services at trade events.
- Build understanding among local leaders across the country on the economic importance of exports in partnership with the National Association of Counties (NACo).
- Use BusinessUSA to better connect rural businesses with government-wide export resources.

DENALI COMMISSION

Question. Secretary Pritzker, in 2013 I asked the Government Accountability Office to take a top to bottom look at the Denali Commission. This work is expected to conclude in the early summer months. It wasn't that I think the Denali Commission is a waste of taxpayers funds or that it lacks a mission. The Denali Commission's mission is to upgrade the third world living conditions that threaten the health and welfare of our Native people in rural Alaska. I abhor the notion that people who are desperately in need of aid the newborn and the Elder so often have

to pay the price for bureaucratic infighting. Too often programs are not improved as a result of scrutiny. They are simply canned. The reason that I asked GAO to look at the work of the Denali Commission was that the ongoing wars involving the Commissioners, the Federal Co-Chair and the Inspector General fundamentally distracted the Denali Commission from its mission and I'm looking for strong reforms.

My question goes to supervision of the Denali Commission. I think the adult supervision of the Commerce Department is very much in need. It's not at all evident that the work of the Federal Co-Chair has been evaluated, even though that person reports to you. You recently reappointed the Federal Co-Chair. I have to tell you that I no longer have confidence in that individual and made that known to your staff and the White House prior to the reappointment. Assistance from the Commerce Department's Office of the General Counsel is lacking. And I would submit that the Denali Commission would benefit from the depth and breadth of the Commerce Department's Inspector General as an improvement over the recently departed "one man band" Inspector General who spent most, if not all, of his working time (if one can call it that) in Arizona rather than Alaska. I am looking for your reaction to these ideas.

I would like to play a role and an active one in the reform of the Denali Commission. And I would like a partner in the Commerce Department that I can work with.

Would you designate someone who will work with me to see this project through?

Answer. The Department and the Administration are fully committed to improving the livelihood of Alaskans by encouraging long-term public and private investments in key sectors, establishing a business environment that will help to create high-quality jobs and promoting long-term economic development in economically distressed areas of the State. For example, the Economic Development Administration (EDA) has invested over \$3 million with the Alaska Works Partnership to help develop the Pipeline Training Center, which is training the next generation of pipeline workers in Alaska. EDA has also invested \$1.9 million to expand the Cold Climate Housing Research Center <<http://www.cchrc.org/>>, which is making strides in finding more efficient and environmentally friendly means to deal with Alaska's harsh winters.

EDA maintains the delegated responsibility for reviewing the Denali Commission's Annual Work Plan, and in conjunction with the Department have provided invaluable programmatic guidance and support to the Commission. In certain discrete areas the Department has a statutory relationship with the Commission, however, the Department generally defers to the Commission as an independent entity in its day-to-day decisionmaking, operations and policy-making; including its choice of selecting an Inspector General. It remains important for the Department to maintain that clear, distinct separation.

Specifically addressing the Inspector General issue, the Department is pleased to inform you that the Denali Commission has entered into a memorandum of understanding (MOU) with the Department of Commerce's Office of Inspector General (OIG). Pursuant to this agreement, the OIG will provide comprehensive, independent audit and oversight services to the Commission on a reimbursable basis and will effectively serve as the interim Inspector General for the Denali Commission pending a permanent selection by the Commission.

EDA is available as an advisory resource to the Commission and communicates with the Commission's Federal Co-Chair and Counsel on a regular basis.

ELECTRONIC MONITORING

Question. NOAA acknowledges in its fiscal year 2015 budget request: "The goal is to deliver cost-effective and sustainable electronic data collection solutions that enhance monitoring of catch and by catch in all U.S. fisheries." In general, I am seeing that NOAA supports these goals at the Headquarters level, but efforts to make progress on the water in Alaska are hampered at the Regional level. The problem appears to be Science Center staff who seem more dedicated to designing long term research programs than making progress toward practical solutions. I am concerned that Science Center staff in the Alaska region are not working effectively with fishermen to move forward with the cooperative research program required in the fiscal year 2014 Omnibus Appropriations bill.

The goal here is to validate the functionality of cameras, facilitate the collection of data, and improve the logistics of deploying electronic monitoring equipment on small fishing boats in Alaska. When I met with you last year you expressed an understanding of the importance of this issue in Alaska, and the potential for it to benefit fisheries around the Nation.

Secretary Pritzker, can you commit to working with me to ensure that NOAA is dedicating the resources necessary to make progress toward the deployment of viable electronic monitoring technologies on these boats in 2014?

Answer. Yes, NOAA Fisheries is committed to advancing the capability to use electronic monitoring (EM) technology in Alaska fisheries in situations where EM can provide the data needed to manage and conserve these fisheries. We have used EM (video) to monitor compliance with retention and fish handling requirements on catcher/processors for many years. We have participated in and funded several past EM research projects. We are committing funding toward EM research in fiscal year 2014 and plan to continue to do so in the future. We are actively working with industry representatives and the Pacific States Marine Fisheries Commission (Pacific States) to develop and implement a cooperative EM research plan to test and compare different EM technologies with observers, to work out logistical issues, and to estimate implementation costs.

We are conducting this cooperative research on four tracks. These are:

- Track 1.*—deployment of 5 to 10 current EM units from Saltwater, Inc., and Archipelago Marine Research Ltd. to evaluate the respective system performance, logistics and costs of deployment;
- Track 2.*—deployment of 3 to 5 current EM units with observers to allow analytic comparisons of data quality and data quality trade-offs;
- Track 3.*—deployment of 5 to 10 new stereo camera systems with observers to allow similar analysis as in #2; and
- Track 4.*—testing of current electronic logbooks in the fleet and further refinement to integrate them with vessel sensor data.

Working in collaboration with industry and Pacific States, we are developing study plans for each track of research and deploying EM onto boats in 2014. The fishing industry and Pacific States are taking the lead on Track 1, and NOAA Fisheries, Pacific States, and industry are taking the lead on Tracks 2 through 4. Work on Track 1 is already underway with cameras deployed on several boats in the fishery. Tracks 2 and 3 will be underway by early summer and it will include components of Track 4. We look forward to evaluating the results of this work.

This collaboration between NOAA Fisheries and industry has been ad hoc to date; however, in April 2014 the North Pacific Fishery Management Council (Council) took action to appoint membership to an EM sub-committee dedicated to EM testing and development. This committee will bring in additional industry representation ensuring balanced participation across the industry. The Council's EM committee is scheduled to meet on May 15 and 16 in Anchorage to review progress on cooperative research and mapping the processes forward toward integration of EM as a tool in Alaskan fisheries management. Several of the Council appointed committee members were already participating in our ad hoc collaboration.

NOAA Fisheries has recently sent a letter to the participants in the small boat hook and line fleet soliciting their interest in participating in cooperative research with us on EM, and we noted that selected volunteers will be provided a release from observer coverage for the duration of the research. This provides an incentive for participation. Several industry members have already installed EM equipment and requested retroactive releases from coverage. We have not granted these releases because we need a coordinated effort and a process that ensures that all in industry are afforded the opportunity to participate. We asked for responses from industry for EM participation by May 30 and received 17 requests to participate in cooperative research. For any of these vessels that are selected to participate in the research, NOAA expects to implement EM releases based on criteria we develop with our newly formed EM committee.

NOAA Fisheries is now in the second year of implementing the restructured Alaskan observer program, which expanded observer coverage to the Pacific halibut fishery, and to vessels between 40 and 60 feet in length in the groundfish and halibut fisheries. In implementing the program, we provided a mechanism to release vessels from coverage in cases where there was insufficient life raft or bunk capacity. This avoids displacing fishermen in order to accommodate an observer. The Council supported this initial approach to the newly observed fleet, and NOAA Fisheries has implemented a consistent release process, with verification of industry requests via follow up phone calls and site visits. The addition of EM will expand that release process in the near term in order to enable EM testing to inform subsequent Council decisionmaking on the use of this technology in catch estimation.

We also are working on cooperative research with a group of trawl catcher/processors ("the Amendment 80 sector") to solve a specific halibut bycatch problem. This research will examine the use of video to allow halibut to be sorted and counted on the deck of the vessel in order to maximize survival of the fish during handling, and

to allow accurate accounting of the bycatch before it is returned to the sea. This industry sector is highly motivated to test and adopt the technology we have developed as it has potential to solve a significant bycatch issue. This research is currently underway.

MARINE DEBRIS

Question. The 2011 devastating earthquake and tsunami that struck Japan resulted in a large amount of marine debris which in 2012 began to reach Alaska, California, Hawaii, Oregon, and Washington. In 2013, Alaska experienced significant debris impacts in multiple coastal areas, and the volume of Japan-origin debris is predicted to increase in 2014. The Commerce Department's fiscal year 2015 Budget Request is for \$6,000,000, the same as enacted for fiscal year 2014. The fiscal year 2014 funding represented a \$1 million increase over fiscal year 2013, and this increase is expected to be used for Japan-origin debris activities. I am, however, concerned that this level of funding is insufficient to address the volume of debris still hitting Alaskan shores, as well as the other Pacific States. I am further concerned that your agency does not fully appreciate the magnitude of this problem, including the fact that much of the Alaskan coast is Federal lands which means clean-up of this marine debris is a Federal responsibility.

Secretary Pritzker, are you willing to work with me to ensure that funds in NOAA's Marine Debris Program are allocated on a priority basis for grants to support clean-up marine debris clean-up and disposal activities in the five affected Pacific States, with priority given to clean-up activities on Federal land?

Answer. I am always happy to work with you, Senator Murkowski. As you are aware, the Government of Japan provided \$5 million to NOAA's Marine Debris Program to support marine debris response efforts, such as removal of debris, disposal fees, cleanup supplies, detection and monitoring. Of this amount, we provided an initial sum of \$250,000 to each of the affected States (Alaska, Washington, Oregon, California and Hawaii) and the State of Alaska has requested and received an additional \$750,000. The funding was also used to remove a large dock in Olympic National Park. NOAA is holding the balance of roughly \$2.5 million in reserve to distribute as new needs arise. NOAA's agreement process for these funds requires NOAA to approve the States' proposed work plans for any funding, as well as perform necessary environmental compliance reviews.

HYDROGRAPHIC CHARTING

Question. Modern, accurate geospatial information is critical to navigation, public safety, infrastructure planning, and resource management. This is particularly important in Northwest Alaska where increased maritime traffic in the Bering Straits region and in the Arctic underscore the need for current hydrographic information. In some areas the state-of-the-art mapping information is the result of lead-line survey work conducted before the United States purchased Alaska from Russia. There is an urgent need for updated charts, yet NOAA has indicated that it has an 85 year backlog for hydrographic surveys in Alaska.

Secretary Pritzker, your agency plays a critical role in supporting hydrographic charting, including in the Arctic and Bering Straits Region. Can you commit to dedicating the necessary resources to conduct hydrographic surveys and prepare navigational charts adequate to address the increasing maritime traffic in these regions?

Answer. NOAA must balance the requirements of a particular area with requirements of all other areas within available resources. NOAA has developed 5-year hydrographic survey plan to identify about 40,000 square nautical miles of critical area and address the most critical survey needs in Alaska. In recent years NOAA has surveyed approximately 500 square nautical miles annually in Arctic waters. NOAA is also planning to build 12 new charts for the Arctic over the next 10–15 years.

NOAA plans to resume full Arctic operations in 2015 under the President's budget request.

NATIONAL DATA BUOY SYSTEM

Question. I am strongly concerned with problems associated with NOAA's maintenance of data buoys off the coast of Alaska. These data buoys provide important information to mariners, including commercial and recreational fishermen. The long-standing outages are resulting in critical gaps in weather and sea condition information and contributing to less safe operations at sea.

Secretary Pritzker, will you please provide documentation on how NOAA intends to address the maintenance backlog for the National Data Buoy System, including specific information on current outages in Alaska? I would appreciate information

on NOAA's plan to schedule and effect repairs to restore existing data buoy operability, as well as the strategy to minimize outages in the future.

Answer. The Department of Commerce and the National Oceanic and Atmospheric Administration (NOAA) share your concern with long outages for data buoys off the coast of Alaska and around the rest of the United States.

NOAA is conducting maintenance, with ship support from the U.S. Coast Guard, for much of the National Data Buoy System from now through the end of September 2014. Plans are in place to restore nearly half of the current 27 buoy outages, including 4 of the 9 Alaska buoy outages that had been backlogged since 2013. Maintenance for the buoys in the Bering Sea and Western Aleutians is scheduled for July 2014 to restore long outages in that region. Schedules for maintenance for most of the remaining outages are being developed between the National Data Buoy Center and the NOAA-leveraged U.S. Coast Guard ship resources.

NOAA will continue aggressive maintenance of the National Data Buoy System to improve buoy operability to 73 percent by the end of fiscal year 2014.

SEAFOOD CERTIFICATION

Question. I am concerned that third party vendors are requiring adherence to criteria and labeling of seafood that has not been thoroughly vetted and approved through a public process. One of the more troubling aspects of this process is the failure of executive branch agencies to consult with NOAA on the issue of whether U.S. fisheries are being managed sustainably. Specifically, I am referring to Seafood Sustainability Guidelines developed by the Department of Health and Human Services, General Services Administration, and National Park Service that were applied to all Federal agency vendor and concession operations. These Guidelines were developed and implemented without any consultation no meetings, not even a call with anyone at NOAA to ask for their expertise on this issue.

Secretary Pritzker, can you please articulate the policies and procedures have been put in place at NOAA to ensure that this will not happen again?

Answer. Since the National Park Service published its vendor guidelines in June 2013 and we were made aware of the General Services Administration/Health and Human Service's guidelines published in 2011, NOAA Fisheries has worked directly with the entities involved (National Park Service, General Services Administration, the Department of Health and Human Services, the Food and Drug Administration, and the Centers for Disease Control) to introduce their program staffs to NOAA Fisheries, its stewardship mission, the reputation of U.S. fisheries as a global model of success in sustainable fisheries, and to offer our expertise to guide them in any further discussions regarding sustainable fisheries and seafood. Based on these interactions, the General Services Administration revised and republished its guidelines in September 2013 (see below for relevant provision), to take into account U.S. managed fisheries as sustainable and to refer to FishWatch.gov.

"Where seafood options are offered, provide those procured from responsibly managed, sustainable, healthy fisheries.^{44*}

^{44*} The NOAA FishWatch Program defines sustainable seafood as "catching or farming seafood responsibly, with consideration for the long-term health of the environment and the livelihoods of the people that depend upon the environment." Verifying the health and sustainability of U.S. and international fisheries is not always simple. Domestic fisheries are managed by State and Federal agencies under legally established fisheries management plans. International fisheries are managed under sovereign laws and international treaties. Guidance on how to make sustainable seafood choices is found on the NOAA FishWatch site at www.fishwatch.gov/buying_seafood/choosing_sustainable.htm.

The General Services Administration's guidelines are available on the General Services Administration's Web site at: http://www.gsa.gov/portal/mediaId/170091/fileName/Guidelines_for_Federal_Concessions_and_Vending_Operations and at the Centers for Disease Control Web site at: http://www.cdc.gov/chronicdisease/pdf/guidelines_for_federal_concessions_and_vending_operations.pdf.

With regard to longer-term procedures and policies to ensure other Federal agencies coordinate with NOAA Fisheries on matters of sustainable fisheries and seafood, the agency is coordinating with stakeholders to help keep apprised of various activities as well as proactively introducing itself to inform them of U.S. standards for sustainable fisheries and offer its science expertise. It may be helpful to note that the issues of sustainability are an ever-increasing matter of global interest in the market place and as such, the issue of sustainable seafood emerging as a topic of interest in other Federal agencies whose missions and expertise do not include sustainable fisheries is new. As NOAA Fisheries becomes aware of such activities, the agency directly engages one-on-one to formally introduce its mission and offer

its expertise to advise and guide any sustainable seafood matter under consideration by another agency. We anticipate these engagements will translate into better awareness of NOAA Fisheries as the Federal authority on such matters.

The most recent examples of these Federal engagements have been with the Department of Health and Human Services and its Federal advisory committee—Dietary Guidelines for Americans Committee. The Dietary Guidelines for Americans Committee is preparing to revise nutritional guidelines by 2017 and has decided to include the sustainability of seafood within its guidelines. NOAA Fisheries is now in formal discussions with the Department of Health and Human Services and the support staff assigned to the Dietary Guidelines for Americans Committee. In similar fashion, NOAA has recently reached out to the Department of Defense, Defense Logistics Agency, which is also exploring the matter of sustainable seafood as part of its food services mission for Defense personnel.

Question. Also, can you please explain what steps NOAA is taking through FishWatch and any other program to acknowledge the successes of sustainable fisheries management in the U.S.?

Answer. Beginning in 2010, NOAA Fisheries has enhanced its strategic communications efforts to build public familiarity and recognition of U.S. Federal fisheries as a global model of success in responsible fisheries management, and support our fishing and seafood industries. Key among the agency's communications assets for delivering this message is FishWatch. Over the last 3 years, the agency has expanded its proactive, strategic communications to the broader spectrum of the seafood supply chain, including one-on-one meetings with distributors, retailers, food service and culinary industries, and expanding participation in professional meetings, trade forums and various national and international initiatives addressing sustainable seafood in the market place (e.g. Global Sustainable Seafood Initiative, and The Sustainability Consortium). Based on these engagements and growing relationships, NOAA Fisheries has received extensive input on FishWatch and suggestions for improving FishWatch as a useful tool to industry and consumers. In response, NOAA Fisheries has drafted a next generation investment strategy for FishWatch including mobile access for the broader seafood consuming public, and potential capacity to serve as a public interface to acknowledge partnerships with the agency, possibly including U.S. fishermen and seafood harvested under a U.S. fisheries management plan, a recommendation made by NOAA Fisheries' Marine Fisheries Advisory Committee (MAFAC), a Federal Advisory Committee Act-compliant body that advises the Secretary of Commerce on all living marine resource matters that are the responsibility of the Department of Commerce.

In addition, based on increased interest from the fishing industry, in October 2012, the agency asked MAFAC to examine whether NOAA Fisheries could or even should have a role in eco-labeling of U.S. federally managed seafood. Although MAFAC did not come to any consensus, in December 2013, it submitted recommendations which are available for public review and comment through the end of May 2014. The agency anticipates comments received by the public and seafood industries will be helpful for any next steps the agency may take. A summary of these recommendations follows:

- MAFAC recommends that NOAA Fisheries improve awareness of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and other laws and regulations governing U.S. fisheries and domestic aquaculture, particularly in the domestic business-to-business environment.
- MAFAC commends the educational efforts undertaken by NOAA Fisheries thus far on FishWatch.gov and encourages more work in this direction.
- MAFAC recommends that NOAA Fisheries utilize the standards and requirements of the MSA as the reference points to create a business-to-business based approach, recognizing the sustainability of wild harvest seafood products from U.S. Exclusive Economic Zone (EEZ) fisheries in compliance with the MSA.
- MAFAC recommends adoption of traceability measures, implemented by buyers to enable subsequent purchasers to track sustainable fishery products in the marketplace.

Full MAFAC recommendations available at: http://www.nmfs.noaa.gov/op/Sustainability/Sustainable_Seafood_Certification.html.

FISHERIES FINANCE PROGRAM

Question. The President's fiscal year 2015 budget request includes proposed language to authorize \$100,000,000 for fiscal year 2015 in direct loan authority for NOAA's Fisheries Finance Program (FFP) Account as authorized by the Merchant Marine Act. FFP loans have a negative subsidy rate and no appropriated funds are required. I have supporting the proposed language which I believe will increase op-

portunities for vessel owners to build and refinance new vessels and make major modifications to existing vessels to improve fishing vessel safety. These loans will help the fleet modernize and provide significant economic benefits to shipyards and support industries.

Secretary Pritzker, will you please provide a written update on the status of new regulations to support this enhanced authority within the Fisheries Finance Program?

Answer. An Advance Notice of Proposed Rulemaking (ANPR) is currently being developed to seek industry input on the potential form of a new vessel and vessel reconstruction loan authority. The ANPR will help the Department publish regulations that facilitate fleet modernization while supporting ongoing efforts to maintain sustainable fisheries. Once industry input has been received, the Department will publish draft regulations addressing vessel replacement, project cost, risk, and other matters related to effective program management. It is anticipated that the rule-making process will be completed by December 2015.

QUESTIONS SUBMITTED BY SENATOR LINDSEY GRAHAM

TRANS-PACIFIC PARTNERSHIP (TPP)

Question. I'd like to first acknowledge the Administration's commitment to the Yarn Forward Rule of Origin for textiles and apparel in the Trans-Pacific Partnership (TPP). As you know this rule is of critical importance to the U.S. textile industry and has created invaluable supply chains globally but in the Western Hemisphere in particular. Western Hemisphere textile and apparel trade is worth \$25 billion in value and 2 million manufacturing jobs.

With that in mind, I'd like to ask you about the Trans-Pacific Partnership and the status of the Market Access negotiations for the most sensitive textile products manufactured here in the U.S. What assurances can you give the committee that the Government is seeking the longest market access phase outs as possible in the TPP?

Answer. The U.S. textile negotiating team has worked in close consultation with U.S. industry and other stakeholders to develop a responsible approach to tariff elimination that ensures our textile industry will not be competitively disadvantaged. The Department of Commerce's Deputy Assistant Secretary for Textiles, Consumer Goods, and Materials has been intimately involved in each round of these negotiations, working with the Assistant U.S. Trade Representative for Textiles to ensure that the concerns of our domestic industry stakeholders are addressed. In the market access talks, the Department has proposed a new, unique concept that provides the longest tariff phase-outs on the most sensitive textile and apparel products.

Question. And how are negotiators counterbalancing this position in light of Vietnam's insistence on immediate access?

Answer. The initial duty reduction provides an incentive for importers and retailers to source goods in TPP countries to take advantage of the agreement while the long phase-outs for full duty-free benefits on sensitive products provide domestic stakeholders and existing free trade agreement (FTA) and trade preference partners time to adjust. In addition, there are additional market access schedules for less sensitive textiles and apparel that provide immediate duty-free treatment.

STEEL

Question. The United States is currently facing a steel import crisis, with dumped and subsidized steel imports from a number of countries and across various product lines flooding our market. These imports are causing injury to our steel industry and its workers.

In response, the domestic industry has brought new trade cases in the past year against unfairly traded imports of rebar and oil country tubular goods ("OCTG"). Both of these industries desperately need relief. Despite the initiation of these cases, I understand that imports continue to flood the market, causing additional injury to the domestic industry. For example, U.S. imports of rebar from Turkey have continued to rise this year, with the U.S. market becoming the single largest destination for Turkish rebar.

Despite rising imports and the desperate need for relief, the Department has made preliminary determinations in both cases that cause concern from the domestic industry.

Can you assure the subcommittee that the Commerce Department will vigorously apply and enforce the U.S. trade remedy laws, including with respect to the above-noted cases?

Answer. The Department is fully committed to enforcing our trade remedy laws so that American industries and workers have the opportunity to compete on a level playing field with their foreign competitors. The enforcement of the antidumping duty (AD) and countervailing duty (CVD) trade remedy laws is one of the Department's top priorities. The Department has received numerous steel-related petitions in the past months and it is currently conducting 39 investigations involving steel products from a number of countries. This represents roughly 75 percent of the Department's ongoing investigations, and it has devoted significant resources to these cases to ensure that unfair trade practices are identified and remedied at the border. With respect to the ongoing cases on steel products, including those on oil country tubular goods and rebar, the Department's Enforcement and Compliance Unit, whose primary mission is conducting these trade cases, is focused on these matters and is diligently scrutinizing the information on the record of these proceedings in order to identify the extent of any unfair dumping or subsidization.

Question. What is the Department doing, and what additional resources does the Department need, to address this import crisis on a comprehensive and systematic basis?

Answer. The Department is currently conducting 39 steel-related AD and CVD investigations covering such products as grain-oriented electrical steel from China, the Czech Republic, Germany, Japan, South Korea, Poland, and Russia; non-oriented electrical steel from China, Germany, Japan, South Korea, Sweden, and Taiwan, and oil country tubular goods from India, South Korea, the Philippines, Saudi Arabia, Taiwan, Thailand, Turkey, Ukraine, and Vietnam. Numerous analysts, accountants, and legal advisors are assigned to these cases to identify the extent of any dumping or unfair subsidization that may be occurring. The Department of Commerce team is also working closely with colleagues at Customs and Border Protection in an effort to ensure that the Department's antidumping and countervailing duty orders are implemented properly and that importers are paying all amounts owed.

In addition to its AD and CVD measures, the Department works closely with the Office of the United States Trade Representative in bilateral, trilateral and multilateral forums, such as the Organization for Economic Cooperation and Development (OECD) Steel Committee, to raise concerns with our trading partners about government-funded steel capacity and other government policies that cause distortions in the steel market both globally and domestically.

With respect to resources, the Department supports the request of the President as reflected in his budget proposal. The vigorous enforcement of U.S. trade remedy laws is a top priority and the Department will continue to conduct all antidumping and countervailing duty investigations in a thorough and transparent manner, in accordance with U.S. law and our international obligations.

QUESTIONS SUBMITTED BY SENATOR JOHN BOOZMAN

INTERNATIONAL TRADE ADMINISTRATION

Question. Over the past decade, 7 of the 10 fastest growing economies in the world have been in sub-Saharan Africa. Demographic trends suggest that by 2050 one in four workers in the world will be African, and the continent's population will top one billion. I believe that it is time for the United States to open new avenues to help American companies go head to head with their competitors in Africa. Over the last 10 years, trade with Africa from China, India, and Brazil has increased eight-fold. Over the same period, U.S. trade with Africa has increased by a multiple of only three. That is why I have joined with Senators Durbin to introduce legislation to create American jobs by increasing exports of U.S. goods and services to Africa by at least 200 percent in real dollar value over the next 10 years. The eagerness and willingness to be good trade partners on the part of African nations is there. They want our goods and services because Africans know they are high quality. The desire for American products, and along with our ideals, is strong. The only thing missing is a cohesive strategy on our end. Two years ago President Obama rolled out his strategy towards sub-Saharan Africa and a large part of his strategy was to encourage U.S. businesses to trade with and invest in Africa.

Can you discuss how the Department is implementing this pillar of the strategy?

Answer. The Administration agrees that there is a need for a cohesive and comprehensive approach that the U.S. Government should be taking towards developing

and increasing our commercial relationship in Africa. As noted, 2 years ago President Obama rolled out the Doing Business in Africa campaign (DBIA) to encourage U.S. companies to trade with and do business in Africa and to take advantage of the tremendous opportunities the region has to offer. The Department of Commerce has coordinated the efforts of U.S. Government agencies to work through one common DBIA strategic plan to:

- increase trade promotion focused on the region;
- expand trade financing and risk management programs available to American companies; and
- increase targeted communication activities to engage key stakeholders and promote Africa as a strategic trade and investment market.

Consistent with this strategic plan, the Commerce Department wants to ensure that American businesses, especially small businesses, are equipped with the tools they need to do business in Africa and thereby create jobs at home. Several key activities that Commerce is doing this year to support the DBIA strategy and U.S. companies include:

- Leading trade mission*: The Department led 20 American companies on an Energy Business Development trade mission to West Africa, which visited Ghana and Nigeria from May 18–23 of this year. This mission promoted U.S. exports and expanded U.S. companies' presence in Africa by helping American firms launch or increase their business in the energy sector.
- Doubling staffing presence in sub-Saharan Africa*: The Department will hire an additional 6 new Foreign Service Officers, 19 locally engaged staff, and 2 headquarters positions that directly work in or on sub-Saharan Africa issues. This expansion will add additional staff to existing operations in Kenya and Ghana and will open four new posts among Africa's fastest growing economies—Angola, Mozambique, Ethiopia and Tanzania. These four markets offer considerable opportunities to American companies in sectors where we have a proven successful track record.
- Hosting an Africa Business Forum*: As part of the upcoming U.S.-Africa Leaders' Summit, which will be held August 5–6, 2014, in Washington, DC, the Commerce Department will lead a Business Forum. The event will bring together hundreds of U.S. and African CEOs, as well as African leaders, to explore practical ways to increase trade and investment between our respective markets. In connection with this Forum, Commerce is also exploring ways to encourage African leaders to travel to various parts of the United States and engage with local business communities both directly before and immediately after the Summit. Whether it is through commercial activities such as trade missions, promotional outreach activities, or trade policy encouraging African nations to strengthen democratic and transparent institutions and improve their investment climate, Commerce continues to actively support the United States' increasing commercial engagement with the African continent.

QUESTIONS SUBMITTED TO HON. TODD J. ZINSER

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

POLAR SATELLITE GAP MITIGATION

Question. Mr. Zinser, your office and the GAO agree that there is still a significant risk for a gap in critical satellite data before the JPSS-1 satellite becomes fully operational. This data is essential for the protection of life and property across our country.

In your opinion, does the Department's fiscal year 2015 budget proposal do enough to address the potential gap in polar satellite data?

Answer. NOAA's options to reduce the likelihood of a gap are limited. The JPSS program determined that it could not accelerate JPSS-1's launch date without excessive risk. The fiscal year 2015 budget continues activities to protect against a JPSS-1 launch delay. However, the budget does not specify activities intended to mitigate the consequences of a polar satellite data gap (i.e., forecast degradation), but some work in this regard was initiated with funds received under the Disaster Relief Appropriations Act, 2013.

Question. Should the Department prioritize filling, or at least mitigating, the gap in polar satellite data over other satellite projects or activities that are included in the fiscal year 2015 request?

Answer. The extent to which the Department should prioritize filling or mitigating a potential gap depends, in part, on how successfully it can provide congres-

sional stakeholders with a cost and benefit rationale of performing that activity compared with performing other satellite projects or activities identified in the fiscal year 2015 budget.

PROGRAM ROBUSTNESS—JPSS

Question. In addition to the potential gap in satellite data, I have serious concerns for the robustness of the JPSS program. The NESDIS Independent Review Team emphasized the danger of being just one failure away from catastrophe—meaning if JPSS-1 fails there is no backup to take its place.

Is the Department taking sufficient steps currently, and within its fiscal year 2015 proposal, to ensure JPSS is a robust program that includes backup options in case JPSS-1 were to fail?

Answer. The Department has begun to take steps towards creating a robust JPSS program. It began planning additional missions for a longer-term JPSS program in response to the independent review team's November 2013 report. NOAA's response included initiating a number of trade studies to identify longer-term gap filler and mitigation options, as well as conducting a gap filler mission concept review at the end of March 2014. Also in March, NOAA indicated its intent to procure copies of the JPSS instrument suite for JPSS-3 and JPSS-4 missions, as well as additional spares of Advanced Technology Microwave Sounder (ATMS) and Cross-track Infrared Sounder (CrIS), potentially for a gap filler mission. The fiscal year 2015 proposal indicates that the requested increase in JPSS funds would support additional instrument procurements. While these are positive steps, NOAA needs to complete an acquisition strategy and other program plans (e.g., cost, schedule, and performance baselines) to ensure that it can meet the independent review team's criteria for a robust program.

WORKING CAPITAL FUND

Question. The Department's funding request for Working Capital Fund (WCF) continues to increase year-after-year. In its fiscal year 2015 request, the Department proposes a \$25.5 million increase over fiscal year 2014 enacted. While requests for WCF continue to rise, along with the assessments made on Commerce bureaus, transparency of billing rates and services provided has decreased. Transparency and accountability is particularly lacking in WCF services provided by the Commerce Office of General Counsel.

Mr. Zinser what is the latest status of your investigation into the operation and lack of transparency in the Department's Working Capital Fund?

Answer. We have completed our audit of the Department's WCF and, on May 15, 2014, we issued our final report, *Office of the Secretary's Working Capital Fund Billing Control Issues Resulted in Incorrect Charges*.

Question. In your opinion, does the Department take any steps to improve transparency and accountability within the operation and billing activities of the WCF?

Answer. We believe that, once the Department implements our final report recommendations, it will have taken important steps toward improving WCF transparency and accountability.

The audit found that the Office of the Secretary Financial Management directorate (OSFM) and WCF service providers did not comply with billing requirements established in the Department's fiscal year 2013 WCF handbook. The noncompliance occurred because OSFM relied on incorrect bases of charge, inaccurate supporting documentation, and/or incorrect billing information for 10 of the 34 projects reviewed. As a result, customers were either over- or undercharged for services provided in fiscal year 2013, compared with the amount that should have been billed. (Please see Appendix C attachment at the end of my responses to Senator Shelby's questions for a list of fiscal year 2013 overcharges and undercharges by WCF project that we identified in our audit.) The Office of General Counsel (OGC) is the service provider for 4 of the 10 projects that did not comply with the requirements of the WCF handbook.

To improve the Office of the Secretary's oversight of the WCF, we recommended that it:

- update processes for calculating the correct bases of charge, and obtain the most current documentation from the service providers;
- require a validation and certification process for WCF service providers to capture and retain supporting documentation that accurately reflects the level of services provided to customers; and
- make a determination on whether fiscal year 2013 charges should be reviewed and recalculated accordingly, and whether adjustments should be considered in calculating charges for fiscal year 2014.

Question. I continue to be concerned about the Department's ramp-up to the 2020 Census. This effort will cause increased budget pressures on the Department for the next several fiscal years. It is imperative that the Census Bureau carry out activities leading up to the 2020 Census efficiently and with future budget constraints in mind.

Mr. Zinser, does the Department take the necessary steps in its fiscal year 2015 proposal to ensure proper controls are in place to keep costs down and schedule on time leading up to the 2020 Census?

Answer. My office actively monitors the Census Bureau's development of the 2020 Census and makes recommendations in areas where internal control weaknesses are identified. Specifically, we have addressed (a) the Bureau's research and testing (R&T) progress, in a report issued on December 3, 2013, and (b) concerns with the Bureau's formulation of budget estimates, in a report that we will issue as final in May 2014.

Our December 2013 report *2020 Census Planning: Research Delays and Program Management Challenges Threaten Design Innovation* examined the adequacy of the R&T program's governance and internal controls to manage the design effort. This audit determined that the current schedule suffered from research delays and lacked adequate budget integration. The Census Bureau concurred with our findings and recommendations and developed the following corrective actions (see Table 1) that, if implemented, should ensure that proper controls are in place to manage costs and the 2020 Census R&T schedule:

TABLE 1. SUMMARY OF CENSUS BUREAU CORRECTIVE ACTIONS

Selected December 2013 OIG Recommendations to the R&T Program	Summary of Corresponding Census Bureau Corrective Actions
Determine when 2020 Census design decisions must be made, adhere to an activity schedule that aligns with those decision points, and develop a critical path for the 2020 Census R&T schedule.	Complete a fully integrated schedule, with established critical paths (including end of fiscal year 2015 deadline for design decisions) for meeting the goals of the 2020 Census R&T program. ^a
Define and adhere to a final testing schedule, and determine how iterative testing and the American Community Survey can be used for the operational testing phase.	Analyze the testing schedule to ensure that the American Community Survey is leveraged to the greatest extent possible.
Incorporate earned value management and budgets at the project level to prioritize projects, as well as assess and quantify 2020 Census research program results.	Develop earned value management guidelines, including a resource-based schedule at the project level. ^b

Source: OIG

^a A resource-based schedule pilot project for 2020 decennial R&T will occur in the summer of 2014.

^b The Census Bureau's full implementation of the EVM process will occur in fiscal year 2015.

Our upcoming May 2014 audit report will identify significant internal control weaknesses in the Census Bureau's budget formulation and execution process, as well as the method used to record project salary costs. Specifically, the 2020 Census R&T program—and likely other Census Bureau programs—charge salary costs to projects based on budget estimates, instead of actual hours worked on a project. In addition, the R&T program was unable to provide support for fiscal years 2013 and 2014 budget requests. Finally, the practice of transferring budget between projects circumvents spending controls, thereby increasing the risk that incorrect or even fraudulent charges could be recorded without detection.

Due to these internal control weaknesses, we were unable to assess the impact of recent budget reductions on the 2020 Census R&T program—and its goal of reducing the 2020 Census per-household cost—because the amount of resources expended cannot be used to analyze whether projects are yielding desired results and should continue to be funded.

Question. In your opinion, what activities should the Committee pay most attention to during this process to best ensure its success?

Answer. In addition to monitoring the Census Bureau's research and testing schedule early in the decade—and the implementation schedule as 2020 nears—the Committee should monitor the advantages, limitations, and risks of:

- the use of administrative records for decennial census activities;
- a targeted address canvassing operation (as opposed to canvassing every block in the United States) that ensures a quality list; and
- implementing an Internet response option.

The Census Bureau successfully incorporating these decennial design changes could save the Government billions of dollars.

Finally, conducting regularly scheduled congressional hearings provides an ideal forum for the Census Bureau to provide updates and respond to oversight concerns.

**ATTACHMENT: APPENDIX C, "DETAILED OVERCHARGES AND (UNDERCHARGES) BY WCF PROJECTS IN FISCAL YEAR 2013;" OF OIG FINAL REPORT NUMBER
OIG-14-020-A, OFFICE OF THE SECRETARY'S WORKING CAPITAL FUND BILLING CONTROL ISSUES RESULTED IN INCORRECT CHARGES, ISSUED MAY 13, 2014**

Service Providers	Office of Human Resource Management		Office of Financial Management		Office of Security		Office of Administrative Service		Office of General Counsel			Total Overcharges or (Undercharges)
	Office of Policy and Programs	Human Resource Management System	Business Application Solutions	Investigation and Intelligence Programs	Electronic Travel Systems	Legislation and Regulations	Finance and Litigation	Administration				
Customers:												
OS	(390)	(1,490)	81,231	18,632	2,058	2,298	156,563	(166,712)	92,190			
ITA	877	(4,972)	1,801	227	165	1,186	(68,079)	(90,723)	(159,518)			
EDA	378	(1,325)	79	0	739	(1,441)	11,608	19,105	29,143			
NTIA	958	(2,083)	2,254	227	1,584	(11,448)	(288,937)	2,947	(294,498)			
NTIS	296	(757)	0	0	(13)	1,771	109,511	10,150	120,958			
CEN	8,819	(90,891)	40,796	227	(3,977)	3,075	326,940	249,345	534,334			
ESA	143	(3,598)	110	0	(117)	7,513	(1,631)	(2,358)	62			
NOAA	(2,542)	129,341	(35,016)	227	(6,649)	3,077	(694,208)	(147,819)	(753,589)			
NIST	(7,087)	(20,198)	(12,741)	227	4,423	(12,146)	(94,772)	140,004	(2,290)			
MBDA	(102)	(505)	224	227	523	2,806	137,334	(5,991)	134,516			
BIS	82	(2,544)	(1,687)	227	1,319	6,268	5,039	(63,109)	(44,405)			

Source: Calculated by OIG based on documentation provided by OSFM and the service providers.
 * OIG's Legal Information Retrieval and OFM's Oklahoma Enterprise Application Systems were not included in this table because we did not have fiscal year 2013 data to determine the over- or undercharges.

SUBCOMMITTEE RECESS

Senator MIKULSKI. This subcommittee will now stand in recess to May 1st at 10 a.m., when we take the testimony of the NASA Administrator, Charles Bolden.

I also wish to announce that there will be a full committee hearing on two things in which we hope to create jobs, one of which on April 29th we will be holding a full committee hearing, all hands on deck, on innovation, particularly in terms of life science and others, where we'll listen to everyone from NIH to DARPA to the Department of Energy.

Also, later on in the spring—the date will be announced shortly—we will be having a full committee hearing on physical infrastructure, how we have to look across the committees on our physical infrastructure needs, whether it's in transportation, water and sewer, and our ports.

Senator COONS. And rail.

Senator MIKULSKI. Excuse me?

Senator COONS. And rail.

Senator MIKULSKI. Yes. But that's transportation. But our ports themselves. There are big ships coming through the Panama Canal. Maryland is ready, but we looked ahead and got ourselves ready. But we need viable ports. We want those imports and exports, and Japan is one of our great trading partners with Toyotas and motorcycles.

Anyway, we will be holding a full committee hearing on kind of an infrastructure appropriation so we know that every subcommittee is looking at our physical infrastructure using this year's appropriations, how we can have a horizontal view on what this means to creating jobs and yet getting value for our dollar, solving important problems in transportation, the environment through public works, getting our ports ready for the new ships in the new century.

So these are the kinds of things we'll be doing, and therefore the committee, for now, stands in recess until the full committee hearing on April 29th, and this subcommittee, May 1st, for NASA.

Secretary PRITZKER. Thank you very much. Thank you, Senator.

[Whereupon, at 11:25 a.m., Thursday, April 10, the subcommittee was recessed, to reconvene at 10 a.m. on Thursday, May 1.]

**COMMERCE, JUSTICE, SCIENCE, AND RE-
LATED AGENCIES APPROPRIATIONS FOR
FISCAL YEAR 2015**

THURSDAY, MAY 1, 2014

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 9:30 a.m., in room SD-192, Dirksen Senate Office Building, Hon. Richard C. Shelby presiding.
Present: Senators Mikulski and Shelby.

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
STATEMENT OF HON. CHARLES F. BOLDEN, JR., ADMINISTRATOR**

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. The subcommittee will come to order.

Administrator Bolden, as one of the most publicly recognized agencies in the Federal Government, NASA serves as an inspiration to many across the globe. For more than 50 years, NASA has pushed the boundaries of human knowledge through exploration and scientific discovery.

The cutting-edge missions and projects historically undertaken by NASA are technologically challenging and risky. A true commitment of resources, coupled with strong oversight, is required for these efforts to stay on schedule and on budget.

In spite of this, NASA's 2015 budget proposal is \$186 million below the current enacted level and contains drastic inequities with respect to program oversight.

This calls into question the administration's level of commitment to a forward-thinking, inspirational space program, I believe. For example, while the Space Launch System, SLS, is subject to strict and necessary oversight, severe budget cuts will ensure delays and unnecessary cost growth.

At the same time, NASA has taken a hands-off approach with the commercial crew and cargo programs, choosing instead to commit seemingly unlimited Federal resources with little to no transparency or accountability. Neither of these approaches, in my view, is acceptable.

And while your statement depicts SLS as critical to NASA's exploration goals, the requested budget does not reflect that commitment. Instead, the budget request maintains a resource level that underfunds SLS and inserts unnecessary budgetary and schedule risks into the future of human exploration.

For the first time in recent memory, NASA has a strategic plan for space exploration that will utilize one platform to meet the needs of multiple exploration missions well into the future. That platform is SLS.

Historically, NASA has planned a single mission and set out to build a program around that mission. Not so with SLS. Once SLS is operational, NASA will be able to provide critical heavy-lift capabilities to short-, medium-, and long-range missions. In short, SLS will provide NASA a versatile platform to conduct a variety of missions.

SLS will allow NASA to break free from its decades-long tether to low-Earth orbit. It will enable NASA to go to an asteroid and achieve the ultimate goal of sending humans to Mars.

In addition, SLS will create significant opportunities for planetary robotic science missions and space-based astronomy. It is the vehicle that will make NASA's goals for exploration possible.

None of this will be possible if we shortchange this effort.

My concerns about the budget are not focused solely on SLS. They also extend to NASA's commercial launch program. And while the commercial cargo program eventually succeeded in delivering cargo to the International Space Station, it came at a significant cost. SpaceX has flown three successful missions to the International Space Station, and Orbital has flown one. These accomplishments should be celebrated.

Yet it is worth noting that these missions could not have been achieved without the investment of nearly \$800 million taxpayer dollars. NASA paid these companies in spite of delayed milestones, shifting completion dates, and a final delivery schedule that was 2.5 years behind. All the while, NASA has little insight regarding the delays and even less about the investments made by the companies.

Today, NASA is using the same flawed model to advance the commercial crew program. Once again, NASA is spending billions to help private companies develop a launch vehicle, but has little to no access to the books and records associated with this investment. None of these companies will publicly disclose investment in the so-called public-private partnership.

The question is, is the Federal Government a majority investor or a minority investor? The fact is, there is no transparency into the true total investment in these vehicles.

Notwithstanding the total Federal investment, I am most troubled that these programs lack an oversight component. Much like the cargo program, we are beginning to see similar issues surface with the crew program.

These issues are not grounded in funding shortfalls, but rather in the capability of these companies to meet their own proposed milestones and deadlines.

Moreover, NASA ceded its authority to investigate these problems when it signed the Space Act Agreements that fund these companies.

I fully recognize that these are not simple efforts. They are technically difficult and extremely risky. That said, the lack of transparency, coupled with the continued demand for additional tax-

payer resources to fund “a commercial venture,” is difficult to rationalize.

While new and innovative ideas often require significant investment and involve significant risk, I believe they cannot come at the expense of other priority programs. They should never be guaranteed funding with little or no oversight.

I plan to work with Senator Mikulski to make NASA’s budget reflect its priorities and to address the inequities in accountability that are emblematic of this request.

General, we welcome you today. We are always glad to hear from you and look forward to the area of questioning. Thank you.

SUMMARY STATEMENT OF HON. CHARLES F. BOLDEN, JR.

Mr. BOLDEN. Senator, thank you very much. I want to thank you and Madam Chairperson, Chairwoman Senator Mikulski, and all the members of this subcommittee for the final fiscal year 2014 appropriations. We are greatly indebted to the hard work that you and Senator Mikulski put into leading the team to come up with the final number.

FISCAL YEAR 2015 BUDGET REQUEST

That budget is allowing us to make substantial progress on our shared priorities, and our fiscal year 2015 request builds on that appropriation. The President’s \$17.5 billion budget request affirms the bipartisan strategic exploration plan agreed to with Congress back in 2010, and it keeps NASA on the steady path we have been following, a stepping stone approach to meet the President’s challenge of sending humans to Mars in the 2030s, and you referred to that in your opening statement.

You should have a copy of this in front of you, but I am going to refer to this chart off and on over the course of my testimony today. But for the benefit of others who are here, this is essentially a pictorial of the roadmap when I refer to the stepping stone approach that we are using to get to Mars. You have already commented on the critical importance of SLS on that, and we can talk about that as I go.

The International Space Station remains our springboard to the exploration of deep space and Mars. Our commitment to extend the ISS until at least 2024 ensures we will have this unique orbiting outpost for at least another decade. This means an expanded market for private space companies; more groundbreaking research and science discovery in microgravity; and opportunities to live, work, and learn in space over longer periods of time.

Later this year, we will see Exploration Flight Test 1, or EFT-1, as we call it, of Orion. NASA is pressing forward with the development of the Space Launch System, or SLS, and Orion, preparing for an uncrewed mission of the two together in fiscal year 2018.

The budget also supports the administration’s commitment that NASA be a catalyst for the growth of a vibrant American commercial space industry. Already, as you pointed out, two companies, SpaceX and Orbital Sciences, are making regular cargo deliveries to the International Space Station.

Later this year, we will move beyond commercial cargo and award contracts to American companies to send astronauts to the station from American soil and end our sole reliance on Russia.

If Congress fully funds our fiscal year 2015 request, we believe we can do this by the end of 2017.

Unfortunately, due to funding levels provided for commercial crew for the past few years, NASA has had to extend our current contract with the Russians and purchase more seats on the Soyuz spacecraft. Instead of investing millions of dollars into the U.S. economy to support American jobs, we will be spending that money in Russia.

While I appreciate all of the funding this subcommittee has provided in recent years, I ask that you fully fund our 2015 request for this critical priority. Budgets really are about choices, and the choice here is between fully funding the request to bring space launches back to American soil or continuing to send millions to the Russians. It is really that simple.

In addition to continuing ISS research, strengthening partnerships with commercial and international partners and building the next-generation heavy-lift rocket and crew capsule to take our astronauts farther into space than ever before, our steppingstone approach includes a plan to robotically capture a small near-Earth asteroid and redirect it safely to a stable orbit in the Earth-Moon system, which we refer to as the proving ground on this chart, where astronauts can visit and explore it.

Our asteroid redirect mission will help us deliver technologies, including Solar Electric Propulsion needed for future deep space missions to Mars. We also enhance detection and characterization of Near Earth Objects (NEO) and improve our understanding of asteroid threats to planet Earth.

NASA's 2015 request continues support for science missions, heading toward destinations such as Mars, Jupiter, and Pluto. It enables NASA to continue making critical observations of Earth and developing applications to directly benefit our Nation and the world. It maintains steady progress on the James Webb Space Telescope toward its 2018 launch.

The budget request also supports missions currently in formulation, such as Europa, and the mission to achieve the science objectives of WFIRST, as laid out in the Astrophysics decadal survey. Our aeronautics program will continue to focus on substantially reducing fuel consumption, emissions, and noise to help make the Next Generation Air Transportation System, or NextGen, a reality.

All of NASA's investments help drive technology and innovation, spur economic activity, and create jobs. That is why the President's Opportunity, Growth, and Security Initiative, with congressional approval, will provide NASA nearly \$900 million in additional funding in fiscal year 2015 to focus on specific areas where we can advance our priorities.

In summary, the fiscal year 2015 budget request advances NASA's strategic plan for the future, will continue building U.S. preeminence in science and technology, improve life on Earth, and protect our home planet while creating good jobs and strengthening the American economy.

PREPARED STATEMENTS

Senator Shelby, I really want to thank you again, you and Senator Mikulski, for the leadership you have displayed with this subcommittee and for the very good funding that we received in the fiscal year 2014 appropriations. I look forward to continuing to work with you and being able to be as happy about funding in the future. So I will be happy to respond to any questions you may have now.

[The statements follow:]

PREPARED STATEMENT OF HON. CHARLES F. BOLDEN, JR.

Madam Chairwoman and members of the subcommittee, I am pleased to have this opportunity to discuss NASA's fiscal year 2015 budget request. The requested budget of \$17.46 billion provides the resources NASA needs to pursue the goals and priorities that the Congress and the Administration have established for the Agency and will ensure that NASA will remain the world's leader in space. A summary of the fiscal year 2015 budget request is appended to this statement.

The President's fiscal year 2015 request supports NASA's continuing quest to extend human presence into deep space and on to Mars. NASA will continue to perform research aboard the International Space Station (ISS), partner with American industry for crew and cargo delivery to low Earth orbit (LEO), develop the Space Launch System (SLS) and Orion crew vehicle, and test our new capabilities in the proving ground of cis-lunar space before sending a human mission to the Red Planet. NASA will also continue to develop a rich array of commercial and international partnerships as part of its overall exploration framework. As we speak, American astronauts aboard the ISS are learning the fundamental lessons necessary to safely execute extended missions deeper into space. Later this year we will see the Exploration Flight Test-1 (EFT-1) of Orion atop a Delta IV Heavy launch vehicle. NASA is pressing forward with development of SLS and Orion, preparing for a first, uncrewed mission in fiscal year 2018.

As a critical element in this long-term exploration strategy, as well as a source of continuing scientific and material benefits to life on Earth, operations in LEO remain among NASA's highest priorities. With the Administration's commitment to the extension of ISS operations through 2024, NASA looks forward to expanded research opportunities with continuing support from our commercial partners for both crew and cargo. Two American companies are launching supplies to the ISS from U.S. soil. NASA will complete a commercial crew competition this summer, and if Congress fully funds our fiscal year 2015 budget request, we believe we can stay on track to launch astronauts to the ISS from American soil by the end of 2017. This capability is critically important to safe/sustained operations, and will end our sole reliance on our Russian partners for this service. The requested funding is required to meet this critical near-term need.

Consistent with the NASA Authorization Act of 2010 (Public Law 111-267) and the National Space Policy, NASA continues to make solid progress on the development of SLS and Orion for a series of test flights including a compelling mission in the proving ground of cis-lunar space to redirect a small asteroid into orbit around the Moon, and to send U.S. astronauts to rendezvous with and explore this target. The proving ground of cis-lunar space also puts the Nation in a position from which we may help our commercial and international partners robotically explore other destinations on that pathway, such as the Moon.

The Asteroid Redirect Mission (ARM) will enable NASA to test powerful Solar Electric Propulsion (SEP) and integrated human/robotic vehicle operations in deep-space trajectories. Like the invaluable ISS, this mission will provide NASA with critical knowledge, experience and technologies for future human exploration missions deeper into space. Drawing on our long-term investments across three Mission Directorates, the fiscal year 2015 request supports continued core capability development and formulation of the integrated mission concept. The overall asteroid initiative also includes enhanced Near Earth Object (NEO) detection and characterization, which will extend our understanding of the NEO threat while providing additional opportunities for investigations of asteroids and demonstrations of technologies and capabilities.

NASA's fiscal year 2015 request for Science supports operation of the world's premier constellation of spacecraft dedicated to exploring Earth, the solar system, and the universe beyond, while we continue to develop the next generation of missions

in pursuit of our Nation's highest priority space and Earth science. The James Webb Space Telescope (JWST), NASA's next-generation successor to the Hubble Space Telescope (HST), continues on schedule for its 2018 launch. In recent months, NASA has completed rigorous testing of the spine of the massive telescope and completed the primary mirrors for integration. As we announced last year, we have begun work on a large Curiosity-scale rover for a 2020 mission to Mars, and the fiscal year 2015 request includes funding to continue pre-formulation activities of a potential mission to Europa, one of Jupiter's moons believed to harbor a vast subsurface ocean. NASA will launch five Earth science missions in calendar year 2014, taking advantage of the unique vantage point of space to secure new insights into our home planet. The Earth science budget will support airborne campaigns to the poles and hurricanes, development of advanced sensor technologies, and use of satellite observations and data analysis tools to improve natural hazard and climate change preparedness.

With NASA's fiscal year 2015 request, our pioneering Aeronautics research program will continue to focus on substantially reducing aircraft fuel consumption, emissions, and noise—and help make the Next Generation Air Transportation System, or NextGen, a reality. NASA's Aeronautics Research Mission Directorate (ARMD) will continue to implement the strategic vision for aeronautics that NASA launched last year, with a focus on addressing the challenges facing the U.S. aviation community—civil and military—in the coming decades.

In essential support of the Agency's broader mission, the fiscal year 2015 request supports an active Space Technology Program to advance cutting-edge technologies, providing an on-ramp for new space technologies, creating a pipeline that matures them from early-stage through flight, and delivering innovative solutions that dramatically improve technology capabilities for NASA, the aerospace sector, and the Nation. The request supports the sustained investments that NASA must make to mature the capabilities we need to achieve the challenging goals that the Congress has set for us. By the end of fiscal year 2014, NASA will test and deliver two candidate designs for high-power solar electric systems for SEP with critical applications for deep-space exploration as well as for Earth-orbital activities. By the end of calendar year 2015, NASA will have completed seven Space Technology missions in 24 months, including demonstration of a deep-space atomic clock for advanced navigation, the green propellant demonstration (an alternative to highly toxic hydrazine), a solar sail to demonstrate propellant-free propulsion, and four small spacecraft missions pioneering new technologies. The Space Technology Program is also developing high performance systems for decelerating spacecraft at Mars, high bandwidth laser communications with the potential to transform communication systems for both space exploration and commercial use, advanced life support technology, advanced robotics, and lightweight composite propellant tanks.

The program laid out in detail in NASA's fiscal year 2015 request continues NASA's implementation of the priorities established for it in the bipartisan NASA Authorization Act of 2010. In the current constrained budget environment, we have designed a balanced program that pursues the Nation's highest priorities in science, exploration, and aeronautics; with a critical technology development program to develop essential capabilities. The fiscal year 2015 request supports the next steps on the way to Mars in a sustainable way. It enables NASA to restore an American capability for sending humans to orbit while continuing development of a deep-space capability for human space flight. This is not an either-or scenario. Each is critically dependent on the other. The request supports the Nation's highest priority science and technology goals for space. NASA appreciates the strong budget support the Agency has received despite a difficult budget environment, and we are fully committed to delivering the world's leading space program on behalf of the American people.

NASA is pleased to be included in the President's Opportunity, Growth, and Security Initiative (OGSI). Under this initiative, NASA would receive nearly \$885.5 million in additional funding in fiscal year 2015 to focus on specific priorities. This initiative recognizes NASA as a critical source of innovation and technology that creates opportunity, economic growth, and ultimately security and prosperity. NASA's funding under OGSI would focus on priority investment opportunities such as an expanded Space Technology Program, reducing risk and enhancing competition in the Commercial Crew Program, continuing currently operating science missions and accelerating work on potential future missions. NASA's portion of OGSI would also enable further development work on SLS and Orion, more fully utilize the ISS, and support additional Earth science mission development, advanced computational fluid dynamics research and increased investment in composite materials.

SCIENCE

With 95 missions in development and actively observing Earth, the Sun, the planets, and the universe beyond, NASA remains the world's premier space science organization and the critical source of information on the home planet. The President's fiscal year 2015 budget request for the Science program includes \$4,972.0 million, with \$1,770.3 million for Earth science, \$1,280.3 million for Planetary Science, \$607.3 million for Astrophysics, \$645.4 million for the James Webb Telescope, and \$668.9 million for Heliophysics.

EARTH SCIENCE

The President's fiscal year 2015 budget request enables NASA to continue to make critical spaceborne measurements of Earth, our home; to conduct and fund a comprehensive, competed scientific research program to turn those measurements into an understanding of our complex planet; and to use the measurements and understanding to develop and demonstrate applications that will provide direct benefit to our Nation, and indeed all of humanity. Today, there are 17 NASA-developed research satellites on orbit, making measurements of more than 60 key aspects of our planet's environment. This past February, in collaboration with the Japan Aerospace Exploration Agency (JAXA), the Global Precipitation Measurement mission (GPM) was launched to provide the first-ever, accurate, global maps of rain- and snowfall over the globe. During the rest of 2014, NASA will be launching four more Earth observing research missions: Orbiting Carbon Observatory-2 (OCO-2) to measure global carbon dioxide concentrations with unprecedented coverage and accuracy; RapidScat to the ISS, to make measurements of ocean wind speed and direction; Cloud-Aerosol Transport System (CATS), also to the Space Station, to measure atmospheric aerosols; and, in November, the Soil Moisture/Active Passive (SMAP) mission to make accurate measurements of soil moisture and freeze-thaw cycling. These 2014 missions will be followed in 2015–2017 by the SAGE-III (Stratospheric Aerosol and Gas Experiment III) instrument to the ISS for atmospheric trace gas profile data, including ozone measurements; the Gravity Recovery and Climate Experiment (GRACE)-Follow On gravity mission with our German partners to measure changes in the Earth's gravity field and water storage, such as aquifer level changes; a constellation of eight smallsats, called Cyclone Global Navigation Satellite System (CYGNSS), to use reflected Global Positioning System (GPS) signals to measure conditions in cyclones and hurricanes; an instrument called Tropospheric Emissions: Monitoring of Pollution (TEMPO) to fly on a commercial geostationary communications satellite, to measure air quality over greater North America; and Ice, Cloud, and land Elevation Satellite-2 (ICESAT-2), to make precise measurements of our planet's rapidly changing ice caps and glaciers.

NASA is now developing the Pre-Aerosol, Clouds and ocean Ecosystem (PACE) ocean color and aerosol continuity mission, and the NASA-Indian Space Research Organisation (ISRO) Synthetic Aperture Radar (NI-SAR) mission in collaboration with the Indian space agency to measure solid earth processes, ice flows, global vegetation, and response to disasters and geohazards. The fiscal year 2015 budget request also supports NASA to develop missions that will continue key climate data series, including a set of solar irradiance, ozone profile, and Earth radiation budget instruments, and follow-on capabilities in support of U.S. Geological Survey for sustained land imaging following our successful launch of Landsat-8 just 1 year ago.

ASTROPHYSICS AND JAMES WEBB SPACE TELESCOPE

NASA is making strong progress on JWST, the most powerful space telescope in history, and remains on cost and schedule for launch in 2018. The Webb telescope is the next in a series of astrophysics missions, including the venerable, yet still unrivaled, HST and the incredibly productive Kepler exoplanet mission, which are revolutionizing our understanding of the universe. After launching in 2018, the Webb telescope will travel one million miles from Earth, unfold its sunshield to the size of a tennis court, and keep its instruments cooled to a temperature of 370–387 degrees below zero Fahrenheit (40–50 Kelvin). The Webb telescope will allow us to observe objects even fainter than HST can see, which will allow us to study every phase in the history of our universe, ranging from the first luminous glow after the Big Bang, to the formation of solar systems capable of supporting life on planets like Earth, to the evolution of our own solar system. The fiscal year 2015 request will support work to continue testing the integrated science instrument module for JWST, continue the construction of the spacecraft that will carry the science instruments and the telescope, and begin the assembly of the delivered mirror segments into the telescope backplane.

NASA's Astrophysics Program operating missions include the Hubble, Chandra, Spitzer, and Kepler telescopes; and other missions that together comprise an unrivaled, and in many ways unprecedented resource for the study of our universe. NASA is currently working with our German partner to identify a path forward for the Stratospheric Observatory for Infrared Astronomy (SOFIA), a mission with high annual operating costs that cannot be accommodated within the fiscal year 2015 budget request. In fiscal year 2015, NASA's next two astrophysics Explorer missions will continue their development. The Neutron Star Interior Composition Explorer (NICER) will probe the interiors of neutron stars and determine the laws of physics that govern atomic nuclei. NICER will be launched to the ISS in 2016. The Transiting Exoplanet Survey Satellite (TESS) will extend the pioneering work of the Kepler Space Telescope, which showed us that virtually every star in the sky has a planetary system. TESS launches in 2017 and will discover rocky exoplanets orbiting the nearest and brightest stars in the sky in time for the JWST to conduct follow-up observations that will characterize their atmospheres and other properties.

PLANETARY SCIENCE

Planetary Science missions continue to explore the solar system in unrivaled scope and depth. This past November, the Lunar Atmosphere and Dust Environment Explorer (LADEE) was successfully lowered into its optimal position in lunar orbit to enable science data collection, and following the mission's final low-altitude science phase impacted the surface of the Moon, as planned, on April 17. Using its ion engines, the Dawn spacecraft is nearing its next target, Ceres, the largest asteroid in the asteroid belt, with an expected arrival in April 2015. Other upcoming outer planet encounters include the New Horizons mission flyby of Pluto in July 2015 and the Juno mission orbit insertion around Jupiter in August 2016. The fiscal year 2015 budget request also includes funding for continuing pre-formulation activities and studies for a potential mission to Jupiter's icy moon, Europa; with compelling evidence of a liquid water ocean beneath its crust, exploration of Europa is vital to our understanding of the habitability of other planets.

Building on the success of NASA's Curiosity rover on Mars, the fiscal year 2015 request supports plans for a robust multi-year Mars program. In a little more than a year on the Red Planet, Curiosity has landed in an ancient river bed, determined the age of the surrounding Martian rocks, found evidence the planet could have sustained microbial life, taken the first readings of radiation on the surface, and shown how natural erosion could be used to reveal the building blocks of life protected just under the surface. Curiosity is providing vital insight about Mars' past and current environments that will aid plans for future robotic and human missions. The current Mars portfolio includes the Curiosity and Opportunity rovers, the Mars Reconnaissance Orbiter, the Mars Odyssey orbiter, and our collaboration on the European Space Agency's Mars Express orbiter. It also includes the new Mars Atmosphere and Volatile Evolution (MAVEN) orbiter, launched in 2013 to study the Martian upper atmosphere, which will arrive at the Red Planet in mid-September 2014. Future missions include the 2016 Interior Exploration using Seismic Investigations, Geodesy and Heat Transport (InSight) mission, which will take the first look into the deep interior of Mars; participation in the European Space Agency's 2016 and 2018 ExoMars missions; and the new Mars rover planned for launch in 2020.

The fiscal year 2015 budget request includes enhanced funding for NASA's Near Earth Object survey and characterization activities in support of the ARM effort, as well as to protect our planet. Just last year, the Wide-field Infrared Survey Explorer spacecraft was reactivated, renamed NEOWISE and given a renewed mission to assist NASA's efforts to identify the population of potentially hazardous near-Earth objects (NEOs). NEOWISE's first discovery of its renewed mission came on December 29, 2013—a large near-Earth asteroid designated 2013 YP139, which was about 27 million miles from Earth with an estimated diameter of roughly 0.4 miles. NEOWISE can also assist in characterizing previously detected asteroids that could be considered potential targets for future exploration missions.

HELIOPHYSICS

NASA's Heliophysics Program is composed of 29 spacecraft and the associated research to understand the universal physical phenomena of magnetized plasmas and their interactions. These include the influence of the Sun in our local region of the galaxy, the origins of solar variability, and the coupling among various regions at the Earth and other planetary systems. Last year, NASA successfully launched the Interface Region Imaging Spectrograph (IRIS), a Small Explorer mission. Within a few months, IRIS provided a new understanding of how the outer solar atmosphere is heated to over a million degrees. The fiscal year 2015 budget request will support

completion of development of the Magnetospheric Multiscale (MMS) mission, which will launch in 2015 to investigate how magnetic fields connect and disconnect, often releasing tremendous amounts of energy in the process. NASA will continue to develop the Solar Probe Plus (SPP) mission for a planned launch in fiscal year 2018, together with our instrument contributions to the European Space Agency's Solar Orbiter mission; Solar Probe Plus will repeatedly pass through the hot outer atmosphere of the Sun, to within five times the Sun's diameter, which is much closer than any man-made object ever has flown before. Finally, the Explorer missions selected in 2013 to study Earth's outer atmosphere—Ionospheric Connection (ICON) and Global-scale Observations of the Limb and Disk (GOLD)—are in their preliminary design phases for planned launches in 2017.

AERONAUTICS RESEARCH

NASA's Aeronautics research is making air travel cleaner, safer, and more efficient. NASA's fiscal year 2015 budget request provides \$551.1 million to fulfill the Agency's strategic research agenda. This innovative research is aimed at transforming the aviation industry through game-changing advances in the safety, capacity, and efficiency of the air transportation system, while minimizing negative impacts on the environment. NASA's fiscal year 2015 research portfolio is aligned with six strategic research thrusts to directly address the growing global demand for mobility, severe challenges to sustainability of energy and the environment, and technology advances in information, communications, and automation technologies. This portfolio includes those activities in our current portfolio deemed to be the most relevant and critical, as well as new activities focused on high-risk, forward thinking ideas to address aviation's big problems. The Agency will clearly define the most compelling technical challenges facing the aviation industry, and retire these challenges in a timeframe that is supported by stakeholders and required by NASA's customers. Over the next 2 years, NASA will continue to develop, demonstrate, and transition to industry and the Federal Aviation Administration new vehicle and air-space management concepts and technologies to help realize the promise of NextGen, as well as provide technical data, analysis and recommendations to support the integration of unmanned aerial systems (UAS) into the National Air Space. We will strengthen our external partnerships through joint flight experiments using alternative aviation fuels and advanced flight deck and vehicle technologies, and through demonstrations of advanced sensors to improve safety and identify emerging faults before damage occurs. By the end of fiscal year 2015, NASA will close out the 6-year Environmentally Responsible Aviation project with a series of integrated technology demonstrations to demonstrate the feasibility of a suite of technologies to meet our aggressive environmental goals. Through the alignment of our research portfolio to address the most critical challenges facing the aviation sector, NASA will be best positioned to continue supporting the global competitiveness of the U.S. aviation industry that contributes to a \$47 billion positive balance of trade, infuses \$1.3 trillion annually into the U.S. economy and supports more than 10 million direct and indirect jobs.^{1,2} NASA is truly with you when you fly.

SPACE TECHNOLOGY

NASA's fiscal year 2015 request includes \$705.5 million for Space Technology, to enable our future in space, drawing on talent from the NASA workforce, academia, small businesses, and the broader national space enterprise, by delivering innovative solutions that dramatically lower costs and improve technological capabilities for NASA and the Nation.

By the end of fiscal year 2014, NASA will test and deliver two candidate designs for large deployable solar array systems, power processing units, and advanced thrusters to support a flight demonstration of SEP. In addition to being important to the future of human spaceflight and the ARM effort, high-power SEP can enable orbit transfer capability for satellites, and addresses the rapid power demand increases facing today's communications satellites. Having successfully demonstrated a 2.4-meter propellant tank in 2013, NASA will complete testing of a 5.5-meter diameter composite tank to enable lower-mass rocket propellant tanks for future systems, including the SLS. By the end of 2015, NASA will have completed seven Space Technology missions in 24 months, including demonstration of a deep-space atomic clock for advanced navigation that has commercial application for improving

¹“Global Aerospace Industry Takes Off for the World's Largest Aerospace Trade Exhibition in 2012,” July 6, 2012, International Trade Administration.

²“The Economic Impact of Civil Aviation on the U.S. Economy,” August 2011, FAA, Page 24, Table 5 and Page 27, Table 8.

GPS systems, the green propellant demonstration (a higher-performing, less toxic alternative to hydrazine), a solar sail to demonstrate propellant-free propulsion, and four small spacecraft missions pioneering new technologies. Building on recent successes with its Low Density Supersonic Decelerator, NASA plans to conduct high-speed tests—at an altitude of 170,000 feet—of the largest planetary parachute ever developed to enable precise landing of higher-mass payloads to the surface of other planets, with particular focus on infusing advanced capabilities into the Mars 2020 mission and future human exploration missions.

NASA's Space Technology investments are aligned with NASA's Human Exploration and Operations and Science Programs to reduce technological barriers and mission risk, and to foster affordable missions. The Space Technology Game Changing Development effort is delivering advanced life-support, advanced robotics, and battery technologies for system demonstrations planned by Human Exploration and Operations. For Science, Space Technology is improving navigational accuracy, developing advanced computing and avionics, and developing advanced Entry, Descent, and Landing (EDL) solutions, observatory technology, and optical communication technology to transmit large amounts of science data from deep space. Space Technology is partnering with Human Exploration and Operations and Science on many activities, including demonstration of in-situ resource utilization, optical communications, and advanced measurements on Mars. These precursor activities will pave the way and reduce risk for future Mars exploration.

EXPLORATION AND SPACE OPERATIONS

NASA is building the capabilities and knowledge to send humans farther from the home planet than we have ever been before. The fiscal year 2015 budget request for Exploration is \$3,976.0 million with \$2,784.4 million for Exploration Systems Development, \$848.3 million for Commercial Space Flight, and \$343.4 million for Exploration Research and Development. Space Operations, including the ISS and Space Flight Support, form a critical component of the Agency's exploration plans by enabling us to develop the knowledge, experience, and technology necessary for safely living and working in space. The fiscal year 2015 request for Space Operations is \$3,905.4 million, with \$3050.8 for ISS and \$854.6 for Space Flight Support (SFS).

EXPLORATION SYSTEMS

The fiscal year 2015 request will enable NASA to continue to meet its milestones in the development of the Space Launch System (SLS), a rocket system ultimately capable of bringing an unprecedented 130 metric tons of payload to Earth orbit. The Orion program continues on track for an uncrewed test flight later this year. This test flight, Exploration Flight Test-1 (EFT-1), will see Orion conduct two orbits of Earth and reenter the atmosphere at approximately 85 percent of lunar reentry speed of a returning deep-space exploration mission. The test will provide valuable data about the spacecraft's systems—most importantly its heat shield and structure. The flight test article for this mission is already in place at the Kennedy Space Center and being readied for this test. The fiscal year 2015 budget request supports progress toward a first uncrewed test of the Orion and the SLS together, known as Exploration Mission-1 (EM-1) in fiscal year 2018, with the first crewed mission of the two vehicles slated for fiscal year 2021–2022. Orion, SLS, and Exploration Ground Systems (EGS) are using the latest in systems and manufacturing technology to develop the safe and sustainable systems this country needs to extend human presence to Mars. Examples include Orion's use of time-triggered gigabit Ethernet, SLS' use of friction-stir welding on large structures to build the Core Stage, and EGS' replacement of cables from Pad 39B with the latest in fiber optics. In developing the Orion, SLS, and EGS, NASA is building a national capability for the long-term human exploration of space.

INTERNATIONAL SPACE STATION

The fiscal year 2015 request supports the ISS with its international crew of six orbiting Earth every 90 minutes. The Station is making deep-space exploration possible, as we build on the knowledge and experience we are gaining from the astronauts living, working, and conducting research on the ISS. On January 8, 2014, the Administration announced it is committing the United States to the extension of ISS operations through at least 2024. This will allow NASA to complete many of the research and technology development activities aboard the ISS necessary to enable planned long-duration human missions beyond LEO; extend the broader flow of societal benefits from research on the Station, which has already resulted in a discoveries that could have significant medical and industrial implications; provide

NASA and its private-sector partners time to more fully transition to the commercial space industry the transportation of cargo and crew to LEO; instill confidence in the science community that the ISS platform will be available for important, long-term research endeavors; and help cement continuing U.S. leadership in human spaceflight going forward. NASA's plans for the coming year include preparing for an extended duration, year-long human-crewed mission—slated to launch in March 2015—to explore human adaptation to space; and continuing to utilize the ISS to improve our ability to live and work in space, including conducting technology demonstrations enabling future exploration. The Center for the Advancement of Science in Space (CASIS) continues to manage the National Laboratory research being conducted in the U.S. segment of the ISS by an array of organizations, including commercial researchers interested in taking advantage of this unique, microgravity facility. One company, NanoRacks, uses standardized hardware to provide a microgravity research option for scientists working in venues ranging from grade school to academia to industry. During its first 3 years of business, NanoRacks sent 91 investigations to ISS, returned 10 to Earth, and deployed one CubeSat—a new area of focus using satellites that measure about four inches on all sides.

COMMERCIAL CREW AND CARGO

A top priority for NASA and the Nation is to affordably and safely launch American astronauts and their supplies from U.S. soil, ending our sole reliance on foreign providers and bringing that work back home. Under NASA's Commercial Resupply Services (CRS) contracts, Space Exploration Technologies (SpaceX) was awarded 12 cargo flights to the ISS, and Orbital Sciences Corporation (Orbital) was awarded 8 flights. Counting demonstration flights and CRS resupply flights, SpaceX has now completed three cargo missions to the ISS, successfully delivering cargo and returning scientific samples to Earth, with the fourth mission successfully launched to ISS on April 18. Orbital Sciences Corporation has completed their demonstration mission to the ISS and their first contract mission under CRS to deliver crew supplies, research and other cargo onboard the Cygnus spacecraft; the Orb 2 mission is currently targeted for June 10. NASA continues to work with its commercial partners to develop a U.S. commercial capability for human spaceflight and plans to launch American astronauts from U.S. soil by the end of 2017. 2014 will be a pivotal year for NASA's Commercial Crew Program (CCP) as the Agency intends to award development and certification contract by September for the Commercial Crew Transportation Capability (CCtCap) phase that would lead to operational crewed flights to the ISS. Competition is a key to controlling costs over the long term, and NASA's Aerospace Safety Advisory Panel has opined that competition should be maintained until safety confidence is achieved. Through the successful execution of this partnership, we will return to the United States the vital capability to launch astronauts to the ISS from U.S. soil and return them to Earth.

EDUCATION

The Administration is proposing increased interagency coordination of Science, Technology, Engineering, and Mathematics (STEM) education investments, aligned with the 5-Year Strategic Plan released last year by the Committee on STEM Education (CoSTEM). The fiscal year 2015 budget request for Education will enhance the impact of the Federal investment in STEM Education through greater interagency coordination and cooperation in support of a cohesive national STEM strategy focused on five priority areas: K–12 instruction, undergraduate education, graduate education, and broadening participation in STEM education and careers by women and minorities traditionally underrepresented in these fields, and education activities that typically take place outside the classroom. The Office of Education will continue its intra-agency consolidation of certain educational programs to eliminate duplication of efforts and achieve maximum leverage of resources.

The fiscal year 2015 budget request of \$88.9 million consolidates education activities in the Office of Education, including several elements that may be transferred from NASA's mission directorates under a competitive process. The fiscal year 2015 budget request for the Education account includes funding for the National Space Grant College and Fellowship Program, the Experimental Program to Stimulate Competitive Research (EPSCoR), and the Minority University Research and Education Project (MUREP), and STEM Education and Accountability Projects. These education investments link to NASA's research, engineering, and technology missions. Each of these investments provides unique NASA experiences and resources to students and faculty. The budget also provides \$15 million to the Science Mission Directorate to competitively fund the best application of NASA Science assets to meet the Nation's STEM education goals.

CONCLUSION

Madam Chairwoman, thank you for the opportunity to appear before you today to provide you with our progress and status over the past year. I would be pleased to respond to any questions you or the other members of the subcommittee may have.

PREPARED STATEMENT OF HON. PAUL K. MARTIN

Chairwoman Mikulski, Ranking Member Shelby, and members of the subcommittee:

The Office of Inspector General (OIG) is committed to providing independent, aggressive, and objective oversight of the National Aeronautics and Space Administration (NASA), and we welcome this opportunity to discuss the major challenges facing the Agency.

Over past 12 months, NASA has achieved a number of milestones that advanced its space exploration and scientific discovery goals, including a third commercial resupply mission to the International Space Station (ISS or Station) by Space Exploration Technologies Corporation (SpaceX) and the first such mission by Orbital Sciences Corporation, delivery of the final three primary mirrors for the James Webb Space Telescope, and deployment of an Earth-observing weather satellite developed jointly with the Japan Aerospace Exploration Agency.

While acknowledging these and other achievements, we believe that NASA will continue to be challenged to effectively manage its varied programs in the current budget and political environment. We agree with the observation made by the National Research Council in its 2012 report examining NASA's strategic direction and management that, in effect, too many programs are chasing too few dollars at NASA. Accordingly, we continue to view declining budgets and fiscal uncertainties as the most significant external challenges to NASA's ability to successfully move forward on its many projects and programs.

For example, the Administration's proposal to extend operation of the ISS to 2024 comes with a price tag of at least \$3 billion per year. Some space policy experts have expressed concern that NASA will not have enough money to operate the Station while concurrently developing the Space Launch System, the Orion capsule, and other components of its human exploration program. Similarly, following 18 years of development at a cost of more than \$1 billion—a 300 percent increase over initial estimates—the Stratospheric Observatory for Infrared Astronomy (SOFIA) Project achieved full operational capability in February of this year. However, the Administration—citing operational costs of approximately \$80 million per year—has proposed placing the observatory in storage during fiscal year 2015 unless NASA identifies partners willing to assume those costs. We are currently conducting audits examining both NASA's plans to extend the life of the ISS and its management of the SOFIA Program.

In our most recent report on the Top Management and Performance Challenges facing NASA, we identified nine issues:

- Considering Whether to Further Extend the Life of the International Space Station (ISS)
- Developing the Space Launch System and its Component Programs
- Securing Commercial Crew Transportation Services
- Maintaining Cost and Schedule for the James Webb Space Telescope
- Ensuring Continued Efficacy of the Space Communications Networks
- Overhauling NASA's Information Technology Governance Structure
- Ensuring the Security of NASA's Information Technology Systems
- Managing NASA's Infrastructure and Facilities
- Ensuring the Integrity of the Contracting and Grants Processes

The report appended to this statement provides a detailed description of these challenges and the work conducted by our office in each area. In this statement, I will highlight three issues: (1) securing commercial crew transportation services, (2) ensuring continued efficacy of the space communications networks, and (3) overhauling NASA's information technology governance structure.

COMMERCIAL CREW TRANSPORTATION SERVICES

In November 2013, NASA celebrated the 15th anniversary of the ISS. Since retirement of the Space Shuttle Program in July 2011, the United States has lacked the domestic capability to transport crew to and from the Station. Consequently, NASA has relied on the Russian Federal Space Agency (Roscosmos) for crew transportation. Between 2012 and 2017, NASA will pay Roscosmos \$1.7 billion to ferry

30 NASA astronauts and international partners to and from the ISS at prices ranging from \$47 million to more than \$70 million each trip. In addition, the recent dispute in the Ukraine and the resulting U.S. sanctions against Russia has intensified calls for NASA to end its reliance on the Russians for crew transportation.

Currently, NASA is working with three companies—The Boeing Company (Boeing), SpaceX, and Sierra Nevada Corporation (Sierra Nevada)—using a combination of funded Space Act Agreements and more traditional contracts governed by the Federal Acquisition Regulation to develop commercial crew transportation capabilities. As of August 2013, the Agency had spent \$1.1 billion on its commercial crew development efforts. NASA's goal is to secure commercial transportation for its astronauts to the ISS by 2017.

As we noted in a 2013 report, NASA's Commercial Crew Program faces multiple challenges, including (1) unstable funding, (2) integration of cost estimates with Program schedule, (3) challenges in providing timely requirement and certification guidance, and (4) coordination issues with other Federal agencies.¹

With respect to funding, NASA's Commercial Crew Program has received significantly less funding than requested over the past several years, resulting in a 2-year delay of the expected completion of the development phase of the Program. Moreover, NASA has yet to project the total amount of funding required by year, which makes it difficult for the Agency to manage its wider portfolio of spaceflight programs and reduces the transparency of the Commercial Crew Program's budget submissions.

Further, we found that the process for providing timely guidance to partners for satisfying NASA's human rating and certification requirements needs to be improved. If NASA is unable to confirm design requirements and provide certification guidance in a timely manner, NASA's partner companies could face costly and time-consuming redesign work late in system development. Finally, coordination of important safety issues with the Federal Aviation Administration (FAA) and the U.S. Air Force is progressing but has yet to be fully resolved. Resolution of issues such as approval processes for in-flight changes and reentry and emergency diversions require formal agreement between NASA, FAA, and the Air Force.

Failure to resolve the challenges facing NASA's Commercial Crew Program could significantly delay the availability of commercial transportation services and further extend U.S. reliance on the Russians for crew transportation to the ISS.

THE SPACE COMMUNICATIONS NETWORKS

NASA's Space Communications and Navigation (SCaN) Program is responsible for providing communications, navigation, and delivery of scientific data to space flight missions. SCaN is comprised of three networks: (1) the Near Earth Network, which covers low Earth orbit and portions of geosynchronous orbit; (2) the Space Network, which controls the Tracking and Data Relay Satellites (TDRS) through a network of geographically diverse ground systems; and (3) the Deep Space Network, which covers NASA mission needs beyond geosynchronous orbit. Without SCaN services, NASA could not receive data transmission from its satellites and robotic missions or control such missions from Earth, and space hardware worth tens of billions of dollars would be little more than orbital debris. While NASA has provided these services for over 30 years, many of its current satellite communications systems are aging and increasingly difficult to repair.

The OIG is examining the SCaN Program in a series of audits. In the first of these reviews released earlier this week, we assessed NASA's efforts to maintain, replenish, and modernize the Space Network.² The Network, which currently consists of a constellation of nine geosynchronous tracking and data relay satellites and three ground stations, plans to perform more than 175,000 hours of tracking to support 25 to 30 missions in fiscal year 2014. We found that key components of NASA's satellite and ground system projects are not meeting planned cost, schedule, and performance goals. Taken together, these delays and cost growth increase the risk that the Space Network will be unable to continue to provide adequate communication services to NASA and the other Government agencies and private entities that rely on Network services. Further, because of budget reductions and the loss of other expected revenue, the Space Network has a projected \$63 million budget shortfall in fiscal year 2016 and even larger estimated shortfalls in subsequent

¹NASA OIG, "NASA's Management of its Commercial Crew Program" (IG-14-001, November 13, 2013).

²NASA OIG, "Space Communications and Navigation: NASA's Management of the Space Network" (IG-14-018, April 29, 2014).

years that will make it difficult for the Network to meet all planned service commitments.

We recommended that NASA (1) require a revised cost estimate for its ground system project and, based on those results, make necessary adjustments to its baseline commitment; (2) make the appropriate reports to Congress regarding the ground system project; (3) ensure the ground system project passes a termination review before re-baselining; and (4) examine options to increase funding for the Space Network.

NASA'S INFORMATION TECHNOLOGY GOVERNANCE STRUCTURE

Information technology (IT) plays an integral role in every facet of NASA's operations. The Agency spends more than \$1.4 billion annually on a portfolio of IT assets that includes approximately 500 information systems used to control spacecraft, collect and process scientific data, and enable NASA personnel to collaborate with colleagues around the world. Hundreds of thousands of individuals, including NASA personnel, contractors, members of academia, and the public, rely on these IT systems every day.

For more than 2 decades, NASA has struggled to implement an effective IT governance approach that appropriately aligns authority and responsibility commensurate with the Agency's overall mission. Since at least 1990, the OIG and the Government Accountability Office have highlighted a series of challenges stemming from the limited authority of NASA's Chief Information Officer (CIO), decentralization of Agency IT operations, ineffective IT governance, and shortcomings in the Agency's IT security. Because IT is intrinsic and pervasive throughout NASA, the Agency's IT governance structure directly affects its ability to attain its strategic goals. For this reason, effective IT governance must balance compliance, cost, risk, security, and mission success to meet the needs of internal and external stakeholders.

In June 2013, the OIG reported that the decentralized nature of NASA's operations and its longstanding culture of autonomy hinder its ability to implement effective IT governance.³ Specifically, we found that the NASA CIO has limited visibility and control over a majority of the Agency's IT investments, operates in an organizational structure that marginalizes the authority of the position, and cannot enforce security measures across NASA's computer networks. Moreover, the current IT governance structure is overly complex and does not function effectively. As a result, Agency managers tend to rely on informal relationships rather than formalized business processes when making IT-related decisions. While other Federal agencies are moving toward a centralized IT structure under which a senior manager has ultimate decision authority over IT budgets and resources, NASA continues to operate under a decentralized model that relegates decisionmaking about critical IT issues to numerous individuals across the Agency, leaving such decisions outside the purview of the CIO.

With mission critical assets at stake and in an era of shrinking budgets, NASA must take a holistic approach to managing its portfolio of IT systems. To overcome the barriers that have resulted in the inefficient and ineffective management of the Agency's IT assets, we made a series of recommendations to NASA to overhaul its IT governance structure to centralize IT functions and establish the Agency CIO as the top management official responsible for its entire IT portfolio, including empowering the Agency CIO to approve all IT procurements over a monetary threshold that captures the majority of IT expenditures. We also recommended that the Administrator reevaluate the relevancy, composition, and purpose of NASA's primary IT governance boards in light of the changes made to the governance structure and require the use of reconstituted governance boards for all major IT decisions and investments. Finally, we suggested that the NASA Administrator reevaluate the resources of the OCIO to ensure that the Office has the appropriate number of personnel with the appropriate capabilities and skill sets.

Effective implementation of our recommendations requires a cultural shift and significant changes to the Agency's IT management decisionmaking regime, including the realignment of authority and responsibilities. NASA management has acknowledged a need for such change and, in our view, is taking a measured approach to address our recommendations. NASA has requested and we have granted extensions for all of the report recommendations, and NASA anticipates implementing corrective actions by the end of 2014.

In conclusion, the OIG looks forward to continuing our cooperative working relationship with NASA, this subcommittee, and other congressional committees as we

³NASA OIG, "NASA's Information Technology Governance" (IG-13-015, June 5, 2013).

conduct audits and investigations that focus on the Agency's top management and performance challenges.

SPACE LAUNCH SYSTEM JOINT CONFIDENCE LEVEL

Senator SHELBY. Thank you. Thank you, Administrator Bolden.

NASA's internal guidance requires that all major projects have a Joint Confidence Level of 70 percent. I am concerned that the budget request for SLS is a sign that NASA intends to advance a funding profile that supports a Joint Confidence Level well below the 70 percent threshold.

In fact, if SLS passed KDPC using \$1.3 billion as the base funding level, which is the budget request, I believe it will result in a Joint Confidence Level close to 50 percent, essentially a coin toss.

Is there any justification, General Bolden, for advancing SLS with a funding profile that provides the taxpayers a 50–50 chance that it will succeed on schedule and on budget?

Mr. BOLDEN. Senator, we have used the Joint Confidence Level as an indicator. It is sort of like probabilistic risk assessment. You called it a 50–50 chance. I am comfortable with having SLS come in at less than a 70 percent Joint Confidence Level because of the maturity of the system itself.

We are using shuttle main engines. We are getting ready to do main propulsion tests, so we will have the four engines that will go through testing at Stennis that will demonstrate that that system, as we designed it, is—

Senator SHELBY. Do you like where they are at this point in time?

Mr. BOLDEN. I love where we are at this point. I am very confident—I would not approve moving—and I have to admit, I am jumping ahead of myself because it has not come to me yet.

Senator SHELBY. Sure. I understand.

Mr. BOLDEN. We have not done that. But I have been following this pretty closely, and I am comfortable that because of the mature systems that we are utilizing for SLS, compared to some other system, a Joint Confidence Level of 70 percent, which would be great if we had it, is not required to make me feel confident that we are going to be able to deliver.

Senator SHELBY. General Bolden, could you assure the subcommittee that the funding for SLS will be consistent with Joint Confidence Levels required for all other major NASA projects?

Mr. BOLDEN. Senator, as I just said, if I understand your question correctly—

Senator SHELBY. Let me ask it again.

Mr. BOLDEN. Well, I think I understood, but you can't fund enough to get SLS to a 70 percent JCL, and I don't want you to do that. I am not asking for that. That would be unrealistic.

Senator SHELBY. My question, could you assure the subcommittee that the funding level for SLS will be consistent—

Mr. BOLDEN. Yes, sir.

Senator SHELBY [continuing]. Consistent with the Joint Confidence Level required for other major NASA projects?

Mr. BOLDEN. I can guarantee that I will have the same assurance at a lower Joint Confidence Level for SLS that I have for

other projects that are much less mature at a Joint Confidence Level of 70 percent.

A 70 percent Joint Confidence Level doesn't guarantee success, but it has demonstrated, mainly for science missions because we have been religious, if you want to call it that, about adhering to the 70 percent Joint Confidence Level. And it has caused us to bring in projects on time and on cost.

Senator SHELBY. But it is very important that we keep funding SLS at a confidence level, a level that they can finish their job, on time and on budget. Does that make sense to you?

Mr. BOLDEN. Yes, sir. The amounts that we have been submitting in the President's budget each year have been sufficient for my team to assure me that we will be able to make a launch date with SLS and Orion for our—

Senator SHELBY. 2017?

Mr. BOLDEN. 2018 is what we are saying, fiscal year 2018 right now.

And I would caution, until we bring you—

Senator SHELBY. I thought the SLS would support a 2017 launch date, which is the current plan. Is that wrong?

Mr. BOLDEN. As I said, I will be able to tell you within a month for sure what the launch date is to which we are going to commit and what the cost for the program will be. That is what is going to come out of KDP-C, and we haven't crossed that milestone yet.

Senator SHELBY. But the costs have been pretty consistent.

Mr. BOLDEN. Consistent. Yes, sir. I agree.

The amount of money that we have requested and the amount of money we have spent year to year on SLS and Orion has been consistent. And that is what I promise we will continue to do.

ROCKET ENGINE PURCHASE

Senator SHELBY. Thank you. I want to shift gears, just a little bit.

Late yesterday, as you well know, a U.S. Federal claims judge issued an injunction prohibiting the United Launch Alliance, the ULA, from proceeding with plans to buy Russian-made rocket engines. This injunction, if kept in place, would impact, ultimately, the Department of Defense, NASA, and so forth.

Is there a possibility that this injunction could impact NASA's missions?

Mr. BOLDEN. Senator Shelby, I would prefer not to add conjecture on that. That is a matter in litigation right now, and my general counsel has been looking into this since last night. I am not an attorney, so I would not dare—

Senator SHELBY. So you wouldn't know whether this order would impact NASA's ability to pay Russia for rides to the space station?

Mr. BOLDEN. I can only tell you that we have already paid Russia through 2017, so we are not impacted.

Senator SHELBY. So you are ahead?

Mr. BOLDEN. So we are ahead of the game. But that is the way we have to be. We have told our partners that the President of the United States suggests that we extend the life of the International Space Station to 2024. We have told our international partners that we are committed to being able to carry their crew and ours

to the International Space Station on American spacecraft by 2017. And so we are committed to that.

However, to ensure that we can get the crews there through 2017, we have already made the payment. We made it several months ago. So we are okay through 2017.

Senator SHELBY. It is also my understanding, if you can confirm this or to reject it, that it would take a couple years, that we have a backlog of engines from Russia, so there is not going to be an immediate impact.

Mr. BOLDEN. I would defer to our partners, Orbital Sciences and ULA, because I go on what they tell me, and they tell me they have a backlog of engines to cover X number of flights.

So for us, our missions are covered.

ALTERING MISSION PAYLOADS

Senator SHELBY. Sure. What changes would be required to alter mission payloads in the event, down the road, that the launch vehicle could not be used? What is the estimated cost of those changes? Have you gotten that far yet?

Mr. BOLDEN. I will take that for the record.

[The information follows:]

LAUNCH VEHICLES

The changes would depend on when the launch vehicle change occurs in the development and ground testing cycle of the spacecraft. The closer to the launch date the launch vehicle change occurs, the greater the potential impacts. A spacecraft needs to be tested to ensure it can handle the launch vibration, g-force, and acoustic environment it expects to experience during the ascent to space. Changing launch vehicles would require some combination of new testing and analysis to assess the new launch environment impacts to the spacecraft. The impacts and changes could be minor or they could be large depending on the particular spacecraft design and its interaction with the new launch vehicle.

The cost impacts resulting from changing the launch vehicle are time- and circumstance-dependent, but could include: spacecraft retesting and new analysis efforts, potential changes to spacecraft structure, potential requirement to procure a new payload attach fitting that attaches the spacecraft to the rocket and softens the ride, as well as any spacecraft delivery delays caused by this new activity. These costs could be significant, and if a planetary launch opportunity were missed, then likely the costs could run into hundreds of millions of dollars in delay costs. These spacecraft impact costs would be in addition to any costs required to procure a new launch vehicle. NASA has not made a specific assessment of cost impacts due to the scenario-dependent nature noted above.

Senator SHELBY. We hope we won't get that far.

Mr. BOLDEN. Somebody down in the bowels of my ship may be doing that, but I have not asked anybody to do that.

We are optimistic because of our partnership with Roscosmos. It has been steady. It has been firm. And it remains that way. And I remain in contact with my counterpart, who is equally concerned that we maintain that partnership, so I am comfortable.

U.S. RELIANCE ON RUSSIA FOR LAUNCH VEHICLES

Senator SHELBY. Let me get into another area, the same basic area.

Mr. BOLDEN. Yes, sir.

Senator SHELBY. Since retiring the space shuttle, we have relied solely from the Russians to get our astronauts to and from the International Space Station. The crisis in Ukraine and the current

tensions with Russia have caused many people to question the longstanding relationship. We are all hopeful for a thaw there.

In the light of recent decisions regarding sanctions, we are left to wonder what would happen if Russia no longer provided the transportation for our astronauts. And to address these concerns, some have advocated simply investing more heavily in the commercial crew program.

General, is there any company participating in the commercial crew program today that could be ready to take our astronauts to and from the space station within a year? And would additional resources make that possible? And how much would be required? That is a big question, I know.

Mr. BOLDEN. No, no. That is a good question, Senator.

And although at least two of our—in fact, all three of the competitors that I know about, because we are in blackout right now with the contract negotiations or selection—all of them have flights scheduled in 2015 of one type or another, whether they are crewed or uncrewed, and that is normal in a development program.

But just because they fly does not mean that they are ready to be human rated. So, with additional funds, we can accelerate that schedule of their flying, but they have some technical challenges that we should not overlook. So I am comfortable.

We are sticking with the 2017 date that we will have commercial crew available.

Senator SHELBY. And we hope that things work out between us and Russia and the rest of the world, but if Russia were to cut ties with the U.S. or we were to cut ties with them, and they would no longer be able to provide our astronauts transportation to and from the space station, what are our options?

If we had astronauts at the space station, would they get home? Or do you think that is down the road?

Mr. BOLDEN. Senator, a point I think everybody should bear in mind is the partnership that runs the International Space Station is now a 15-year partnership that is pretty well-oiled. It depends not just on Russia and the U.S., but the other three partners.

The way that we have set up the International Space Station, I don't want to say there is an indispensable team member, but the loss of any team member has an impact on the ability to operate the International Space Station. Should we or the Russians choose to pull out, the International Space Station as we know it no longer exists.

The dominant member of the International Space Station team for day-to-day operations, navigation, crew activities, the science on board, is the United States. So if we were to decide to pull out, one of the reasons that we request cooler heads prevail, if we were to pull out, then there is no more of the type of operations that go on, on the International Space Station today.

Senator SHELBY. But the fact remains, does it not—correct me if I am wrong—that we are dependent on the Russians for the transportation?

Mr. BOLDEN. Yes, sir. Today, we are dependent on the Russians. And if for some reason—

Senator SHELBY. And in the near future, too, right?

Mr. BOLDEN. Yes, sir. But if something were to happen that caused us to have to evacuate the International Space Station, the contingency plan, is we have two vehicles that are there, two Soyuz spacecraft.

Senator SHELBY. You think it would work, don't you?

Mr. BOLDEN. We get the crews into the Soyuz spacecraft, and we would come home. Everybody talks about the Russians stranding us. The Soyuz is a three-person crew, a three-person spacecraft. At least two of those people are essential, and usually one of those two essential people is a flight engineer who is an American astronaut.

Senator SHELBY. Okay. You think that would be the escape?

Mr. BOLDEN. That is the escape right now. That is the emergency return vehicle. It is the nominal return vehicle. It is the only vehicle we have. That is why commercial crew support is critical for this Nation.

Where we are today is history, and I don't even dwell on how we got here or anything else. I am looking to the future, and we are really focused on trying to make sure that we have American companies that are ready to fly our astronauts to the International Space Station and other low-Earth orbit destinations that I think are coming by 2017.

And if the Congress funds to the President's requested level in 2015, we are on a good trajectory to get there.

COMMERCIAL CREW PROGRAM

Senator SHELBY. You mentioned the commercial crew investment. And while the commercial cargo program has finally experienced successes, the process is littered with technical challenges, missed milestones, schedule delays, and even requests for additional resources.

That is not unusual now.

Mr. BOLDEN. I am glad you said that, Senator. As you know very well.

Senator SHELBY. Program participants continue to face challenges in meeting the number of contracted space station resupply missions. NASA has chosen to use the same process and methodology to execute the commercial crew program.

My questions are these. Given that the commercial cargo program was 2.5 years behind schedule and \$200 million over budget, what assurance or what can you tell us here at the subcommittee that the commercial crew program will not suffer the same fate?

In other words, how are they doing? Are they going to be basically on time and on the money?

Mr. BOLDEN. Senator, I would like to correct one piece of information about funding. The total NASA investment in the COTS program, the commercial cargo program, was \$684 million. So I don't think that was over any normal expectation.

Senator SHELBY. Okay.

Mr. BOLDEN. Granted, it was delayed, but I would remind everybody of the space shuttle program. I got to Houston in 1980 to become a member of the astronaut corps, and the space shuttle was to have launched in 1978. So when I got there, we were already 2 years behind.

We finally launched in 1981. You will remember very well, being from Alabama, one of the critical delays was loss of a main engine on the test stand at Stennis.

Senator SHELBY. That is right.

Mr. BOLDEN. Those kinds of things happen, and we are trying to make sure that we don't have that happen in the commercial crew development program. There is a difference in the way that we are doing the commercial crew program from a safety oversight perspective.

If you were to talk to Ralph Roe, who is now my chief engineer, and Terry Wilcutt, the head of safety and mission assurance, they are intimately involved in every respect with the safety requirements and the human rating specifications for commercial crew vehicles.

We have been working that for 2 years. We have been under contract with three providers, Boeing, SpaceX, and Sierra Nevada, to make sure that we understand how they are going to develop hazard reports, how they are going to track. So that is much more like the space shuttle program, than say people are familiar with COTS.

We are now entering into a contract phase, where it is much more like it is traditionally done under FAR-based contracts.

Senator SHELBY. General, I will work with you and Senator Mikulski. Senator Mikulski and I have worked together for NASA, working to make sure, to the best of our ability, that NASA is well-funded. We have our job to do on oversight and funding.

I wish we could find more money for all of our programs. We are in tough budget times, as you well know. But we are going to do everything we can to fund NASA.

ROADMAP TO MARS

Could you take just a few minutes again—there is a little glare for me on that chart there—and go over that chart again?

Mr. BOLDEN. Senator, I don't know, do you have a copy of it there on your desk? It will probably be easier—

Senator SHELBY. Just follow it.

Mr. BOLDEN. I will make it really quick.

Senator SHELBY. Don't make it too quick. It is very involved.

Mr. BOLDEN. We intended for it to be simple. Let me stipulate at the outset—

Senator SHELBY. A lot of work went into this.

Mr. BOLDEN. A lot of work went into this.

But you have some purists behind you there on the staff, who are going to be critical of my artwork.

Senator SHELBY. No, they would think you were a master. Go ahead.

Mr. BOLDEN. Although I show four SLS vehicles orbiting Mars, I am taking artistic license. The SLS only goes to low-Earth orbit, and then it falls back to Earth, so bear with me on that. It is trying to show the approximate number of SLS missions that we think it would take for a Mars mission to the surface of Mars.

So other than that artwork, forgive me.

But essentially, it shows where we are today. We are Earth-reliant. We generally spend 6 months in low-Earth orbit. We are get-

ting ready to put up a crew next year. Scott Kelly and his Russian counterpart, they will be there for 12 months, so that will expand the amount of time that we spend in low-Earth orbit.

We still use the space station as our primary staging point to learn about human survival in a microgravity environment.

Where we are moving is to the proving ground. This is what is new, and what people sometimes have a difficult time with. We need to get away from low-Earth orbit, so that we can learn how to operate our spacecraft. We don't know how to fly out there.

Senator SHELBY. What will take you out of low-Earth orbit? SLS?

Mr. BOLDEN. SLS. Now, you see SLS here quite a bit. And I will tell you what is critical, because I want to try to present a complete picture. We are not leaving the Earth-reliant arena ever. We will have to stage there.

So what will happen for us to be successful with deep space exploration, is that we have a firm infrastructure that is in place around low-Earth orbit, multiple facilities like the International Space Station.

So my hope is, within the next 5 to 10 years, you will start to see commercial providers putting other vehicles into low-Earth orbit that will be laboratories, habitation facilities, and the like. That infrastructure will have to be serviced, and that is why we need commercial crew and cargo.

So NASA does not provide transportation to low-Earth orbit anymore. We are out of the access business. So it is really important for everyone to remember we have no exploration program without this low-Earth orbit infrastructure that we are trying to help industry put in place. We are trying to help American industry provide the low-Earth orbit infrastructure.

Senator SHELBY. General, at the end of the day, and, of course, you never know what you find out there, this is a very ambitious project, the Mars mission, and so forth, but so many missions have brought forth so many more things than you imagined at the beginning.

Mr. BOLDEN. Yes, sir.

MARS MISSION POTENTIALS

Senator SHELBY. What would you expect to get out of this? This is an important question.

Mr. BOLDEN. This is a very, very, very ambitious strategy. There are a number of reasons that we believe humans should be on Mars. One of them is to make us a multi-planet species, and that is a kind of funky term, but what it means is that we will demonstrate that humanity can live on more places than just Earth.

The other thing is that it will help us learn a lot about Earth, because Mars, asteroids, and other places in our solar system sort of came from the same origin as our own planet Earth. So looking at Mars and the way it is today, it will help us understand—we need to understand how it got there, because we think it used to be like Earth. What did the Martians not do that got it to be in the bad shape that it is in right now? So that is another reason to go there.

The other reason is because we are an exploring species. We have always done that. My and your ancestors moved away from

the East Coast of the United States to the Mississippi. And they got there and they weren't satisfied, and they wanted to know what was on the other side of the river, and so they continued to go out and to pioneer.

I use the term "pioneer" instead of "explore." Exploring implies we are going to go out and come back, like Lewis and Clark. We are intending to pioneer Mars, which means we are going to put people on that planet to be there permanently.

HUBBLE SPACE TELESCOPE

Senator SHELBY. I remember in this subcommittee years back when people were naysayers about the Hubble telescope. They said, "Oh, gosh, that is a waste of money." But it hasn't been a waste of money. It has been on the cutting edge of exploration.

Mr. BOLDEN. It has been absolutely incredible.

Senator Mikulski, I want to thank you. You weren't here when I thanked you the first time, but I am going to thank you again for all you have done in leading this subcommittee and providing appropriations for NASA.

Senator Mikulski knows very well. It was because of her that we were able to fly the final Hubble servicing mission, STS-125, when the decision had been made at my level that we should try to do a robotic mission. That was demonstrated to be "not" the right way to do it. Hubble today is an absolutely incredible facility that is fully functioning.

Senator SHELBY. A great success.

Mr. BOLDEN. We intend to have the James Webb Space Telescope (JWST) that we launch in 2018 that will be the successor of Hubble. We are in formulation right now to build a mission that some people refer to as WFIRST, but it will satisfy the science requirements of WFIRST, as laid out by the decadal survey.

So it is a progressive understanding of our universe.

Senator SHELBY. I think so, too.

I yield to the chairman.

STATEMENT OF SENATOR BARBARA A. MIKULSKI

Senator MIKULSKI [presiding]. Thank you very much, Senator Shelby. And thank you for opening this hearing. It is part of this very bipartisan trust that we have in each other, and I appreciate it.

Because of the terrible storms in the capital region, it took me 2.5 hours to come from Baltimore today. We have had accidents, mudslides, et cetera. Trains are down.

And I appreciate that we want to show that we can live on Mars. I am kind of dedicated to showing that we can live on Earth right this particular minute.

Again, so I want to thank you. Administrator Bolden, I have already read your testimony, and I want to acknowledge the written testimony of NASA's Inspector General Paul Martin. We had hoped today to have his actual oral testimony, but because of the pending votes, we wanted to move as expeditiously as possible.

PREPARED STATEMENT

Inspector General Martin has identified nine top management performances and challenges facing NASA, all of which this subcommittee strongly believes that it needs to address.

In the interest of time, I am going to ask unanimous consent that my full opening statement be included in the record, and I am going to move right to my points and my questions.

[The statement follows:]

PREPARED STATEMENT OF SENATOR BARBARA A. MIKULSKI

We are here today to review the 2015 budget request for NASA, an agency that all of us care deeply about. We have just one witness here today: NASA Administrator Charles Bolden, who will testify about NASA's budget priorities. NASA Inspector General Paul Martin has also provided written testimony regarding NASA's top management challenges.

This hearing is part of the Senate Appropriation Committee's mission to hold more than 60 hearings in a span of 6 weeks. We are working diligently and intend to have all our appropriations work done by October 1. If successful, it will be the first time that has been accomplished since 1996, and it is an important part of our return to regular order.

Let me start by saying that I am unhappy with NASA's budget. I worry about what it means for the Goddard Space Flight Center, for space science, for Earth science and for NASA's balanced space program.

The President's budget request for NASA this year is \$17.5 billion, which is actually \$186 million below the fiscal year 2014 level of \$17.7 billion.

What I want to hear from Administrator Bolden is an explanation on how a cut like this impacts NASA's ability to carry out its mission. Frankly, my colleagues and I do not agree with how NASA's proposed budget balances these cuts.

The budget before us proposes to cut science funding by \$179 million—or three percent—below fiscal year 2014. The Space Launch System (SLS) and Orion are cut by \$365 million—or 13 percent—below 2014.

NASA needs this funding to support a balanced space program that funds human space flight, reliable and affordable transportation systems and space science. I want to see NASA continue its Space Station operations.

It is also important to me that the agency support reliable and affordable transportation systems, such as a 2014 test launch for Orion, a 2017 launch for SLS and robust funding for a commercial crew to get to the International Space Station lab facilities without relying on the Russians.

Finally, I want a space program that keeps NASA's near term science launches on schedule and on-going missions on track. I am very concerned that the 2015 budget does not invest adequately in future science missions.

For example, the proposed fiscal year 2015 budget reduces Earth science by \$56 million, cuts astrophysics by \$61 million, inadequately funds a future Dark energy mission and cuts the on-going Hubble mission by 23 percent. That's too much, too soon. We must keep making progress on the scientific missions recommended by National Academies' decadal surveys now and in the future.

I am pleased that NASA is extending the life of the International Space Station through 2020. Thank you. The Space Station is so much more than what everyone saw in the movie "Gravity". It is our national lab in space, and I am so proud of the astronauts there.

As of now, there are six people aboard the ISS—two NASA Astronauts, three Russian Cosmonauts and one Japanese Astronaut. They all arrived there on the Russian Soyuz. That's because when the Space Shuttle retired in July 2011, the United States lost its capability to fly astronauts into space. The ongoing events in Ukraine have me worried about the uncertainty created by that reliance on Russia. Is NASA doing all it can to quickly taper our space program's reliance on Russia?

The Members of this Committee have a space coalition that supports NASA's balanced missions. But to keep that support during frugal times, we need to be able to count on NASA to focus on improved oversight and accountability.

At the request of this Committee, the Government Accountability Office (GAO) has been assessing NASA large projects since 2009. GAO's most recent assessment shows that NASA's cost and schedule performance is improving and that cost growth and schedule slips continue to decrease. That's good.

The average cost overrun is down from 4 percent to 3 percent, while average launch delays are down from 4 months to under 3 months. And I'm especially grateful for NASA's efforts to keep the James Webb Space Telescope on schedule and on budget.

Many challenges remain. NASA needs to remain vigilant. More than 80 percent of the agency's funding is awarded by contract—that's more than \$14 billion of their 2015 request.

Their Inspector General has identified ongoing agency challenges, ranging from project and contract management to cybersecurity. We appreciate Inspector General Martin's written testimony on how NASA has implemented his recommendations.

I want to wrap up by thanking the men and women of NASA. From the machinists grinding precision parts for spacecraft exploring the galaxy, to computer operators compiling data used for forecasting or understanding the Big Bang—they all do great work.

NASA is where scientists are rewriting textbooks and winning Nobel prizes. But it's also where astronauts risk their lives to make discoveries in space. Their work is vital for understanding the boundaries of our universe, expanding the boundaries of science and keeping our tech economy moving forward.

We need to make sure NASA's budget is adequate to meet that mission.

Senator MIKULSKI. First of all, we want to say good morning to you, Administrator Bolden.

Mr. BOLDEN. Good morning.

Senator MIKULSKI. I am sorry I couldn't be here earlier, that we couldn't have had coffee together and so on. We appreciate your continual service to our country, and we also, as I said, want to thank the inspector general.

Also, I know Senator Shelby and I really want to thank the men and women who work at NASA, and the men and women who are the civil servants at NASA, and we want to thank also the contractors who do so much of the important work. They have been under so many stresses.

Doing space and aeronautics in and of itself is challenging, challenging technology, challenging environments. It is not just like the movie Gravity, which was mesmerizing, where it had a happy ending, because they faced everything from sequester to slam down, shut down. It has been a rough road.

Mr. BOLDEN. Yes, ma'am.

Senator MIKULSKI. And so we really want to thank them for their continual dedication.

There are many issues to discuss, one of which is the aging workforce at NASA, impending retirements, the recruitment and retention of others. But let's get right to the appropriations.

FUNDING REDUCTIONS

First of all, I was deeply troubled to receive the President's budget. I was deeply troubled in the area of NASA because there was a reduction of \$186 million from fiscal 2014, which we already knew was tight.

I can't thank Senator Shelby enough for the way he helped move that omnibus. It didn't happen because of Barbara Mikulski. Behind me there was a whole lot of us, including my vice chairman. We worked together.

So when we saw this \$186 million, it was deeply troubling.

Now, I am committed to a balanced space program, human spaceflight, reliable transportation system to both the space station and areas beyond, the space science, and, of course, aeronautics.

So we saw \$186 million cut, and then to rub raw the sores of discontent, we also saw that Goddard Space Agency was cut by \$200 million—\$200 million in very important science programs.

Senator Shelby has also raised the cuts in SLS and Orion, which are the kind of hallmark for going out there.

MAINTAINING A BALANCED SPACE PROGRAM

So I am going to go right to my question about how to maintain a balanced space program when the two major programs—I know Senator Shelby has looked at those things related to a heavy-lift capacity. Are we really funding a lot of things at the expense of space science? Why did you take \$200 million out of Goddard?

Mr. BOLDEN. Senator, as you said, and I appreciate your enthusiasm for a balanced portfolio, we have sought to put in place a balanced portfolio for the agency.

There are a number of projects that are in formulation, in which Goddard will play a critical role. The funding for those projects have not yet been designated and distributed. We look at the long-range viability of each of our centers, and I firmly believe that Goddard will continue to be an integral part of all the programs that we have going forward.

I mention the formulation of a mission to seek out to satisfy the objectives of WFIRST as laid out by the decadal survey. None of that is reflected yet in the NASA budget in the out-years, or in the Goddard budget. So those will be areas that will be plussed-up.

We look at all of the centers. I sit down with the center directors and Robert Lightfoot, and we look at what they see for the out-years, because stability is what the center directors seek. Stability in funding is something that you have said is a goal of yours, and I applaud you for that, because nothing will be as critical as stability in funding in the out-years for our planning and for centers to feel that they know where the future is. The instability in funding has been the thing that has us where we are right now.

SCIENCE BUDGET

Senator MIKULSKI. I understand the stability and funding issue. It is not only me, but it is Senator Shelby and, I must say, our mutual leadership. So that is why we worked with Senator Murray and Senator Sessions to pass a budget that canceled sequester. It was a tough swallow. I would have wanted to do more in some areas, less than others, my colleague. But that is to be debated.

So you want to talk about future missions and decadal and is Goddard going to have a future. But it has a future now in its bread-and-butter issues. The two bread-and-butter issues in telescopes are keeping Hubble on track to continue be the greatest telescope since the Galileo and the James Webb.

So with James Webb, we know that there has been a decrease of \$13 million. I don't dispute that, but the margins are very thin and they are at the high-risk area. I have been out there. We have been there together. We have seen some of this. It is very exciting.

Hubble in the meantime continues to fly and continues to dazzle and continues to write the science books and continues to make Nobel Prize winners. So at the same time, Hubble has been cut \$23 million.

Now I know some might say that is an accounting adjustment, and we are going to fix it in 2016. I don't know what 2016 is going to be. I know what 2015 is going to be.

So this is what we need to do. I don't want to talk about future missions. I want to talk about now. I am going to talk about Earth science, heliophysics, planetary science. I don't want science to be a bank account for other projects that might or might not happen in the future.

Mr. BOLDEN. Senator, I promised when I became the NASA administrator that we were not going to use science as a bank for any of the programs in the agency, and I think we have done that. We have not moved, and I refuse to move any funds out of science into another program area.

What we are looking for is a balanced portfolio in the science, inside the Science Mission Directorate. And as I said, the missions in formulation—when Chris Scolese talks about the future, which is exactly what he is saying, when he looks at the out-years, he doesn't see funds for WFIRST, he doesn't see funds for—

EARTH SCIENCE BUDGET

Senator MIKULSKI. I don't want to be beating a dead satellite here, but Earth science is \$56 million below fiscal year 2014. And fiscal year 2014 was already tough.

Mr. BOLDEN. Senator, we are finding that we have efficiencies in the way that we fly Earth science missions. For the first time ever, we have two Earth science missions that are going to the International Space Station this year. They are significantly less cost to the taxpayer.

And we are trying to find more and more ways to get efficiencies in our programs.

So I think in the long run, when I sit down with Chris Scolese at Goddard and Charles Elachi out at JPL and Steve Jurczyk down at Langley, the people who spend most of their time thinking about Earth science and planetary science, we will find that there is a balanced distribution of the funds in the out-years, once we get a lot of the formulation—

SPACE STATION EXTENSION

Senator MIKULSKI. Well, you and I really strongly disagree on this, Administrator Bolden. We really do strongly disagree on this.

But I want to go to something we do agree on, and that goes to the extension of the life of the space station.

That was a bold decision on your part. But both Senator Shelby and I, along with our colleagues, want to make sure that we get research value for that. And what has been so, I think, strong has been the bipartisan support of both the appropriators, and when we look at our authorizers—and back in the day, it was Senator Nelson and Senator Kay Bailey Hutchison—the whole idea of what could be done on the space station was exciting. So let me get to my question about that.

In order for the space station extension to be viable, we need to be able to get there.

Mr. BOLDEN. Yes, ma'am.

NASA-RUSSIAN COOPERATION

Senator MIKULSKI. We are all deeply troubled about what is going on in Ukraine, and the behavior of Russia and Mr. Putin's words and so on. We leave that to our President and our Secretary of State.

But what we are worried about is the reliability. As I understand it, there are two ways that the space station, we have to be able to get there. So one, we have to keep commercial crew on track, and the other is, as we impose sanctions with the Russians, will this jeopardize their cooperation on Soyuz? So let's put Soyuz here.

Let's go to commercial. One, how do you see the commercial cargo staying on track, particularly with the Orbital-ATK merger?

RELATIONSHIP WITH RUSSIA

And then second, could you bring us up-to-date on the relations with the Russians. And no matter what happens, do you think that will be strong, or is that in jeopardy? Can you answer both those?

Mr. BOLDEN. Senator, as I mentioned to Senator Shelby earlier, I could not state more strongly that the relationship between Roscosmos and NASA is solid. I communicate with my counterpart on a regular basis. Bill Gerstenmaier, who runs human exploration, was just there for a Soyuz launch, about a month ago, and he continues to work.

I think that you know that Sergei Krikalev, who was a former crew member of mine, is in the leadership there.

Senator MIKULSKI. So you are all okay and doing Kumbaya now, but it is a delicate situation internationally. We are going to be escalating our sanctions, and I am not talking about your current relations. I am talking about, are the future relations, in general, in jeopardy?

And do you think that our aggressive pursuit of sanctions—and I am supporting the President in his sanctions. We have to take a strong stand, and we are proud of our NATO alliance.

So you see where I am heading?

Mr. BOLDEN. Yes, ma'am. Senator, as much as I would love to delve into diplomacy and things, because I do think I have a worthwhile opinion, but I am going to resist the temptation to do that. I am going to say that what I am striving to do is continue the relationship I have with Mr. Ostapenko, who heads Roscosmos, to make sure that he does get everything that he can across in Russia to calm down the diplomats and the politicians there, as we are trying to do here in the U.S., to help people understand the importance of this partnership.

We are trying to accelerate as rapidly as we can the availability of commercial crew, so that we can launch our astronauts from—

Senator MIKULSKI. Well, let's move on to that. But I think, really, Senator Shelby and I would like to be able to stay in touch and also to keep an eye on it. I think it is a very delicate situation.

Mr. BOLDEN. Yes, ma'am.

COMMERCIAL CARGO

Senator MIKULSKI. So let's go to commercial vehicles. So what do you think? How are we doing on commercial cargo? And then let's

go to commercial crew, both from a budgetary standpoint, and when do you think, what are the targets for commercial crew?

Mr. BOLDEN. Senator, we are in relatively good shape. We are in great shape with our commercial cargo right now, because Orbital Sciences, that does use a Russian engine, we are told, has enough engines in their stockpile to get through this contract.

We are in the process now of getting ready to negotiate a new contract for commercial cargo after 2016. Orbital, like most other companies, is working with the engine manufacturers to see if there is not a U.S. option for engines.

So those are things that they have been doing long before this recent crisis took place, because they would like to get newer engines. The NK-33, which is now the AJ26, is an old Russian rocket engine. Senator Shelby knows we have been trying to get away from that and get to new technology as quickly as we can, and that work is underway. SpaceX has an American-generated, American-manufactured, engine, so that part of the commercial cargo is stable, and should not be affected at all.

COMMERCIAL CREW

Senator MIKULSKI. Now let's go to commercial crew.

Mr. BOLDEN. Yes, ma'am.

Senator MIKULSKI. What are your target timetables? Do you have the resources to meet those timetables? Could you elaborate?

Mr. BOLDEN. Senator, again, I have to thank you for fighting the good fight with commercial crew and trying to keep our funding as high as possible. Because of your efforts and that of Senator Shelby, the 2014 mark, while not what we would have wanted, was enough that, if matched with the President's request for \$848 million in 2015, will keep us on target for 2017 availability of American capability to launch our crews to space safely and reliably through competition, which we feel is absolutely necessary.

Senator MIKULSKI. Well, as I understand it, commercial crew is funded at \$848 million. It is \$156 million above fiscal year 2014, and your goal was to send astronauts to the space station on U.S. rockets by 2017. Is that right?

Mr. BOLDEN. That is correct. That is the present goal.

Senator MIKULSKI. So you envision American astronauts to be on a vehicle that can go to the space station by 2017?

Mr. BOLDEN. That is correct. In an American vehicle.

Senator MIKULSKI. Excuse me, that is exactly right.

And do you feel that you have the resources to be able to accomplish that? We are obsessed with the safety—and I know you are. Boy, we are committed to the safety of our astronauts.

Mr. BOLDEN. Yes, ma'am.

Senator MIKULSKI. Exploration is great. We love extending the life of the space station. But we are for the safety of those men and women who are so daring to do this.

Mr. BOLDEN. Yes, ma'am.

Senator MIKULSKI. So whatever we do, we know that there is always risk. We know that.

Mr. BOLDEN. Senator, I cannot overemphasize this. As long as you continue to fight as you have been doing, you and Senator Shelby, on the importance of commercial crew, if we can get the

President's request funded at \$848 million, based on having the \$696 million that we have this year in 2014, we should be on target for an American capability in 2017.

Senator Shelby and I were talking earlier, is it possible to accelerate that? With more funds, it is possible to accelerate that, but we are sticking with a 2017 crew launch availability.

Senator MIKULSKI. Including all the human ratings?

Mr. BOLDEN. That is all the human ratings.

Senator MIKULSKI. But if we fund it at fiscal year 2015, this will mean competition of two providers? Do you intend to shrink that? I mean, right now, there are more than two providers.

Mr. BOLDEN. If you allow me, I will stay away from saying how many there are going to be because I don't know how many we are going to select. But what I want to assure you is, no matter how many providers we select, the vehicle will be safe. It will meet our requirements in every regard. And it will be available in 2017.

So that is what I can promise this subcommittee, and that is what is important to us right now.

Senator MIKULSKI. Senator Shelby.

Senator SHELBY. I didn't have any other questions. I just have some observations.

Senator MIKULSKI. Well, before you do, I know you have been very interested in this commercial—

Senator SHELBY. We got into it a little earlier, and I appreciate you continuing in that vein of questioning.

CYBERSECURITY AT NASA

Senator MIKULSKI. Well, we could talk about our telescopes, but I understand they are on track, but for the James Webb, this is a very difficult one.

I want to go to another issue that is of keen interest, again, on both sides of the aisle, which is cybersecurity at NASA.

As I understand it, NASA has some pretty big challenges. This has been identified by you. It has also been identified by the inspector general.

The inspector general talks about inadequate tools for real-time monitoring, a high amount of unprotected network access points, uncoordinated adoption of cloud computing, failure to use best practices in managing IT vulnerabilities.

Do you want to comment on the I.G.'s rather stern assessment of the cybersecurity?

Mr. BOLDEN. Senator, I will say as they did with Congressman Wolf in an earlier hearing. We recognized long before anyone else, I recognized the first day I became the NASA Administrator, that we had a big hill to climb in terms of IT security, how we run our IT cybersecurity program, because we are among the largest areas threatened in the Federal Government.

We have taken a number of actions. Now we have worked with NAPA to do a study of our foreign national access management. That study also included cybersecurity, IT security. It identified 27 actions, recommendations that they gave to us. I accepted every single one of those 27 actions. We have prioritized them in coordination with NAPA, in what we think are critical areas of importance.

So we go down the list on a risk basis. We are already working on the top six. They are funded with internal NASA funds that we already have available.

When we get ready to submit the 2016 budget request, we will have a pretty good idea how much additional funds we need to put into IT security and cybersecurity. We are going to have to put additional people on it. We are advertising right now for a manager for a foreign national access management program.

Senator MIKULSKI. Who is in charge of this?

Mr. BOLDEN. I am. I am ultimately in charge, but my chief information officer—

Senator MIKULSKI. But you are in charge of a lot.

Mr. BOLDEN. My chief information officer is Larry Sweet. I brought him up from the Johnson Space Center. He was the chief information officer there. He was competitively selected.

Senator MIKULSKI. So is Mr. Sweet—in other words, have you put into place a management structure to oversee the cyberstructure, because it is very uneven.

Mr. BOLDEN. We have.

Senator MIKULSKI. We are worried about protecting “dot mil,” okay? I think “dot gov” is very nifty. And then, of course, there are the challenges to “dot com” that we see in the marketplace every day.

I can’t control “dot com,” but we can do something about “dot gov.” So we really need kind of the edge of the chair on this.

Mr. BOLDEN. Senator, when you talk about leadership, there are three people, three buttons that I push. Joe Mahaley heads our operational security branch. Robert Lightfoot, who is the associate administrator, has overall oversight for this. Senator Shelby knows him very well from his time at the Marshall Space Flight Center, and then Larry Sweet.

So between the three of them, those are the three who I go to who can answer any questions that may come up about our approach and our plan in the out-years for shoring up our cybersecurity, our IT infrastructure.

One of the basic problems we had was governance. There was no centralized governance for IT. The chief information officer for the agency didn’t control anybody except people at NASA headquarters. That is unsatisfactory.

Senator MIKULSKI. You have been the administrator for 5 years.

Mr. BOLDEN. And we now have, just as public relations, or public communications, legislative affairs, information, IT, that all comes to headquarters for coordination. We don’t order people what to do. We don’t control the funds at the center level, but we coordinate it such that funds are spent in—

Senator MIKULSKI. Well, I appreciate the progress you have made. You have had a job for 5 years.

Mr. BOLDEN. Yes, ma’am.

Senator MIKULSKI. This is not a new problem.

Mr. BOLDEN. No, ma’am. Not by any means.

Senator MIKULSKI. Cyber has been an ongoing problem. And we hope that there continues to be a sense of urgency.

Senator Shelby.

NASA PRIORITIES

Senator SHELBY. I have no other questions, other than to tell General Bolden, our administrator, that we do have challenges. You have challenges, and both of us believe that we want to fund these missions.

Mr. BOLDEN. Yes, sir.

If I go back to cybersecurity, we have now, because of Larry Sweet, Robert Lightfoot, and Joe Mahaley, we now have dates assigned when we expect that we will answer the mail, when we will have actions complete. Some of those dates, unfortunately, because of budget limitations, are not next year. They may be 2016 or 2017. But we have a plan to get there. As I said, it is a risk-based plan. The things that leave us most vulnerable we are trying to take care of right now, so that we are shoring up. We are sticking our finger in the dike while we have somebody behind us building another better dike. But we are using a risk-based method for putting money against the problems that we have.

Senator MIKULSKI. Well, we agree, I think, all of us, on the goals of NASA. We are troubled over these continually shrinking resources. Remember, we are given a cap on discretionary spending.

Mr. BOLDEN. Yes, ma'am.

Senator MIKULSKI. And there are also firewalls.

We note that NASA's highest funding level was in 2010 when it was \$18.7 billion. That is roughly about \$1 billion less now. So we are not on an upswing here. There is not new money on the horizon, so I think we have to be candid about that.

We are looking at this in a very strong way. We are committed on a bipartisan basis to a balanced space program. And we have big challenges ahead, and we need to cooperate with you. And we do appreciate your longstanding service, both in other capacities serving the Nation and now.

But though we agree on the goals, I am not so sure we agree on some of these priorities in here.

So we have taken your testimony, and we found it very informative.

Again, I really apologize for being late. I had hoped to be here earlier.

And thank you, Senator Shelby.

And so we need to have ongoing conversations. We hope that within the next week, between now and next Thursday, that we have our allocations ready and that we will begin to do our mark-ups. And it would be our goal to have CJS through the full committee before the Fourth of July break.

So that is our goal. That is our timetable.

And because of the strong bipartisan support, and strong tell-it-like-it-is from Senator Shelby, I think we will get it.

So thank you very much, and we will be in touch with you and your staff.

ADDITIONAL COMMITTEE QUESTIONS

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. CHARLES F. BOLDEN, JR.

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

SCIENCE

Question. I have long supported the National Aeronautics and Space Administration's (NASA) Mars exploration program, which has really become a crown jewel of the agency after the successful Curiosity rover landing.

However, I am concerned that continued underfunding of this program could lead to an inability to meet the long-scheduled goal of another rover launch in 2020.

This is a real concern. Under the proposed schedule, any slip in component delivery will threaten the viability of the entire program, because scientists tell me that after 2020, the orbits of Earth and Mars will be millions of miles further apart. So further delay would only make the program more complicated and more expensive.

Does the Administration remain committed to a 2020 launch of the next Mars rover, and will the requested funding level allow the program to remain on schedule?

Answer. NASA's Mars Exploration Program has been, and will continue to be, a major success story for NASA in science, engineering, and technology development. The Administration's fiscal year 2015 budget request supports plans for a robust multi-year Mars program, which includes a budget profile for Mars 2020 that will allow the project to proceed as planned with a launch readiness date in 2020. NASA remains committed to finding the most cost-effective way to accomplish the Mars 2020 mission, and has implemented proven processes and procedures to reduce the likelihood of cost or schedule overruns. Given these factors, we are confident that the requested funding level will allow the program to remain on schedule.

Question. Since the mid-1990s, NASA has invested more than \$1.1 billion in the Stratospheric Observatory For Infrared Astronomy (SOFIA), a project that has been jointly funded with the German space agency (DLR). SOFIA recently achieved full operational capability in February 2014, just 11 days before the fiscal year 2015 budget proposed to cancel the program.

Administrator Bolden, experts and scientists working on this project in California have indicated that they were shocked by the abrupt nature of this proposed cancellation.

What was the process for reaching this assessment that SOFIA is now a "lower priority program"?

Answer. The decision to propose, as part of the fiscal year 2015 NASA budget request, to put SOFIA into storage was primarily a budgetary decision driven by the tight budget caps in the Bipartisan Budget Act of 2013. SOFIA's scientific priority relative to other missions within NASA's Astrophysics portfolio was a secondary consideration to accommodating the level of NASA's fiscal year 2015 Astrophysics budget request (\$607 million) compared with the fiscal year 2014 appropriated level (\$668 million). Hence, NASA has to make tough budget decisions in order to maximize the scientific return of the public investments in the astronomical sciences. Further, among the Astrophysics projects considered for budget reduction, SOFIA was identified for two reasons. First, it is the only strategic Astrophysics project that was not a first priority of a Decadal Survey. Second, while it was a priority in the 1990 Decadal Survey as a medium-class mission, its operations costs are the second largest of all NASA science missions, with only Hubble Space Telescope costing more.

Question. Could you explain why NASA did not follow its usual process of conducting a "Senior Review," which engages experts in the community to set priorities and make tough decisions on whether to end a mission?

Answer. Senior Reviews are reviews of the science productivity of operating missions to support an assessment, based on demonstrated science accomplishments, of the anticipated science value of an extended mission. At the time of the 2012 Astrophysics senior review, SOFIA had not entered operations and therefore had not established a baseline of science accomplishments appropriate for a Senior Review. With the successful commissioning of its fourth science instrument in February 2014, SOFIA entered its operations phase in May 2014.

Question. How will you explain to the U.S. taxpayers that the Administration has simply changed its mind and wasted the \$1 billion it spent building SOFIA?

Answer. Given today's severely constrained budgets, NASA has to make tough budget decisions in order to maximize the scientific return of the public investments in the astronomical sciences. SOFIA's high operating cost was a primary factor in the fiscal year 2015 budget proposal to put SOFIA in storage, unless alternative funding sources are found. Any alternative accommodation of the proposed reduction

in the NASA Astrophysics budget would similarly impact other Astrophysics missions. While significant funding has been spent to develop SOFIA, this funding is less than half of the estimated \$3 billion life-cycle cost of the program.

Question. As you know, SOFIA is a joint project between the United States and Germany. Germany has contributed 20 percent of the cost to develop SOFIA. Germany also built the telescope and contributed the engines and other components. Moreover, Germany has agreed to contribute 20 percent of the operating costs.

Why would NASA choose this moment to pull out of its commitment?

Answer. The decision to propose, as part of the fiscal year 2015 NASA budget request, to put SOFIA into storage was primarily a budgetary decision driven by the tight budget caps in the Bipartisan Budget Act of 2013. The memorandum of understanding (MOU) with Germany recognizes that our ability to carry through on our agreement is dependent on the availability of adequate appropriated funding. Some examples of the rich and robust NASA–DLR cooperation at the forefront of discovery include the Gravity Recovery and Climate Experiment (GRACE), the Fermi Gamma-ray Space Telescope, the Dawn mission now on its way to the asteroid Ceres, and the Mars Science Laboratory/Curiosity. Our long history of mutually beneficial collaboration will continue well in the future, bilaterally through missions like InSight, and multilaterally through the European Space Agency (ESA) where our work in development expands to such projects such as James Webb Space Telescope (JWST) and Exobiology on Mars (ExoMars)/Mars Organic Molecule Analyzer (MOMA).

Question. Are you concerned that this decision will erode trust not only between the U.S. and Germany, but also between the U.S. and other international partners on projects in the future?

Answer. No. Even the most robust space partnerships, such as those among the International Space Station partners, have weathered such developments. Our partners are very aware that in all instances our cooperation is based on the availability of appropriated funds, just as we are aware that their participation has similar funding constraints. NASA has a long history of very successful cooperation with nations around the world, and a part of that history has from time to time included some decisions by NASA and some by our international partners to re-phase, redesign, or even terminate planned cooperative activities.

Some examples of the rich and robust NASA–DLR cooperation at the forefront of discovery include the Gravity Recovery and Climate Experiment (GRACE), the Fermi Gamma-ray Space Telescope, the Dawn mission now on its way to the asteroid Ceres, and the Mars Science Laboratory/Curiosity. Our long history of mutually beneficial collaboration will continue well in the future, bilaterally through missions like InSight, and multilaterally through ESA where our work in development expands to such projects such as James Webb Space Telescope (JWST) and ExoMars/MOMA.

Other countries continue to work with NASA on a wide variety of international partnerships, and we have not observed any change in their willingness to work with us. Currently, NASA has over 600 active agreements with over 120 countries and anticipates that international cooperation will remain a cornerstone of all of its future activities.

Question. The budget notes that SOFIA will be placed in storage “by fiscal year 2015” unless other “partners are developed to support the U.S. portion of SOFIA costs.” As you know, Congress fully funded SOFIA operations for fiscal year 2014.

Does NASA intend to mothball this fiscal year despite it being fully funded by Congress?

Answer. NASA will not take any unilateral action without an appropriate re-programming notification to the Committees on Appropriations. NASA has not submitted a fiscal year 2014 modified Operating Plan to begin the shutdown process for SOFIA.

We can also confirm that the German Aerospace Center (DLR) and NASA have decided to proceed with the scheduled Heavy Maintenance Visit for SOFIA in Germany as planned; SOFIA arrived in Germany at the end of June, 2014, and the Heavy Maintenance Visit is underway.

Question. If this occurs, how feasible do you think it would be for NASA to reassemble the team, should SOFIA be restarted in the future?

Answer. It is very difficult to predict the long-term impacts on the team of mothballing SOFIA; however, NASA acknowledges that trying to reassemble the team after a period of mothballing would be difficult and could require substantial effort.

SPACE TECHNOLOGY

Question. There are several significant projects and technologies NASA identified and funded in the budget that are important for providing communications and deep space navigation technology for human and robotic exploration. For example, the Lasercom Relay Demonstration (LCRD) will provide space-based optical data relays. The use of Human Exploration Telerobotics/Human-Robotic Systems will cooperatively enhance and speed up human space exploration missions to new destinations. Another project in the Space Technology account, Solar Electric Propulsion, would leverage capabilities developed and deployed by the commercial satellite industry and expand them with NASA funded developments to meet long endurance space missions.

Do you believe the funding requested in the President's fiscal year 2015 budget is sufficient to ensure these activities continue to advance human and robotic exploration as well as science missions?

Answer. Yes. We hope that the final fiscal year 2015 appropriation for NASA will fund the entire Space Technology request of \$706 million. NASA believes this funding level requested for Space Technology will enable the technical investments needed for NASA's future science and human exploration missions. The requested funding level would allow NASA to invest in key technology development efforts including: Solar Electrical Propulsion (SEP), Laser Communications Relay Demonstration (LCRD), Deep Space Atomic Clock (DSAC), Low Density Supersonic Decelerators (LDS), Green Propellant Infusion Mission (GPIM), Cryogenic Propellant Storage and Transfer (eCryo), Revolutionary Robotics and Autonomous Systems, and other critical technologies needed for human and robotic exploration deeper into our solar system, leading to human missions to Mars. In addition, fully funding the fiscal year 2015 Space Technology appropriations request brings new crosscutting technologies and capabilities that lower the cost for other Government agencies and the Nation's aerospace industry.

Question. What would the impact be on these innovative technologies if funding did not remain at NASA's fiscal year 2015 requested level?

Answer. A number of impacts to important efforts within Space Technology will occur should the appropriated funding level reduce below the President's budget request. The extent of the impact will depend on the funding scenario. If reductions are made from the requested levels, Space Technology will likely prioritize existing content by scaling back planned competitive awards for most Space Technology programs and slowing the start of new technology demonstrations. Reducing new competitive awards provides stability for existing efforts—especially for those near their launch readiness date, but severely impacts the technology pipeline for the Agency, resulting in a loss of capabilities and efficiencies for future missions.

At the proposed House Appropriations funding level for Space Technology, NASA will scale back competitive awards as noted above. In addition, the following Technology Demonstration Missions (TDM) would likely continue, but with increased execution risk due to the elimination of most of the program's contingency funding: Laser Communications Relay Demonstration, Deep Space Atomic Clock, Low Density Supersonic Decelerators, eCryo and Green Propellant Infusion Mission. Development of the high-priority Solar Electric Propulsion would continue, as planned. Such reductions are particularly challenging for projects planned for launch in 2015 including: Deep Space Atomic Clock, Low Density Supersonic Decelerator, and the Green Propellant Infusion Mission.

In addition, the fiscal year 2015 funding levels proposed in the House bill for Space Technology would likely result in significant de-scoping of content or potential cancellation for the following: revolutionary robotics, autonomous systems, hypersonic deployable technologies, modeling for entry, decent and landing technologies, nuclear system development, Center Innovation Fund (CIF) activities, and new awards in the Small Spacecraft Technologies (SST) program and the Space Technology Research Grants (STRG) program. Reduced funding levels may also impact risk reduction efforts for technologies being developed in preparation for the Discovery 14 opportunity including deep-space optical communication and advanced thermal protection systems.

Space Technology will prioritize technologies based on thrust areas identified as critical to increasing the Nation's capabilities in space, including those meeting the Agency's exploration and science goals. This includes advancement of Solar Electric Propulsion required for the Asteroid Redirect Mission as well as future human missions to the surface of Mars. These thrust areas also emphasize Space Technology's support of continued Mars robotic science exploration, expanding the capabilities of future outer planetary science missions, and developing the large observatory capabilities to understand the Universe. The thrust areas support Space Technology's in-

vestment strategy to enable future NASA missions while offering crosscutting support for the missions and capabilities of commercial and other government space sectors. Nevertheless, at a significantly reduced fiscal year 2015 funding level, as proposed by the Congress, critical content even within these key thrust areas will either run at risk or face elimination.

HUMAN EXPLORATION AND OPERATIONS

Question. As you know, the development of a reliable means of repairing and refueling satellites already in orbit could allow the U.S. to realize significant cost-savings and ensure the continued operation of these satellites for the benefit of civilian and national security assets. It is my understanding that the Goddard Space Flight Center is proposing to expand their work in this important area. I also understand that Goddard is building off of prior investments and leveraging industry capabilities.

Do you believe that in orbit refueling and servicing of satellites is an important research effort for NASA to undertake as a stepping-stone to support human exploration?

Answer. NASA is refocusing its In-Space Robotic Servicing activity to multi-use technology development efforts that could enable multiple NASA missions, including servicing potential science satellites, servicing government missions in low-Earth orbit, and non-NASA users, and provide robotic tools for an Asteroid Redirect Mission, as well other applications for use and/or testing on the International Space Station (ISS).

Robotic Refueling Mission phase 2 hardware will be flown to ISS in fiscal year 2014. This hardware includes a new tool and task board, which will be used to demonstrate additional refueling tasks, including robotic operations associated with cryogenic fluid transfer. In-Space Servicing is also developing a tool to detect external ammonia leaks on ISS. This device will be critical in monitoring and determining leak locations on ISS, and serve as generic tool to assist in satellite repair.

Question. Do you believe that NASA's relationships with commercial partners could be strengthened through such a program?

Answer. NASA continues to engage private industry and other government agencies to determine their interest in these capabilities.

QUESTIONS SUBMITTED BY SENATOR RICHARD C. SHELBY

HUMAN EXPLORATION AND OPERATIONS

Question. Administrator Bolden, you suggested that NASA's "total investment in the COTS program" was only \$684 million. However, by my accounting, the number is closer to \$800 million. I have attached a copy of the schedule of payments provided by your staff, which supports this number. Could you please explain why your "total investment" number is different than that which is reflected in the attachment?

Answer. While the original planned amount for the entire Commercial Orbital Transportation Services (COTS) effort was \$800 million, the actual available appropriations were \$782 million. The \$684 million represents the funding paid to the two remaining partners, SpaceX and Orbital Sciences, under COTS Space Act Agreements. The total COTS program funding paid to date is \$781 million, broken out as follows:

[In millions of dollars]

	Amount
SpaceX	396
Orbital	288
Total COTS Investment in current partner Space Act Agreements	684
COTS Investment in Terminated Space Act Agreement with Rocketplane Kistler (RPK)	32
Total COTS Investment through Commercial Resupply Services (CRS)	18
Total COTS Other Management and Support	47
Total COTS Program Payments through April 30, 2014	781

Question. It is my understanding that at least one of the providers participating in Commercial Resupply Services (CRS) has flown different variants of their launch

vehicle for each mission—some variants being more significant than others. Please provide the subcommittee a detailed accounting of each vehicle flown by mission and the changes made to that vehicle relative to the original qualifying launch vehicle. Additionally, the subcommittee requests a detailed description of the changes made, if any, from one launch vehicle to the next.

Answer. Under the Commercial Resupply Services (CRS) contract, a total of four flights have flown to the International Space Station (ISS) to date. All four flights have successfully berthed with the Space Station and delivered all planned cargo. Additionally, all three SpaceX CRS flights have successfully returned all planned cargo to Earth. The table below outlines the vendor, CRS flight, launch vehicle versions, and launch dates.

Vendor	Flight	Launch Vehicle	Launch Date
SpaceX	CRS SpaceX-1	Falcon 9 v1.0	10/07/2012
SpaceX	CRS SpaceX-2	Falcon 9 v1.0	03/01/2013
SpaceX	CRS SpaceX-3	Falcon 9 v1.1	04/18/2014
Orbital	CRS Orbital-1	Antares 120	01/19/2014

For the CRS program, there is not a NASA “qualification” of the commercial partner launch vehicle in the traditional definition. Each company is responsible for all prelaunch qualifications and verifications of their launch vehicle and is also responsible for determining what launch vehicle is appropriate for the specified mission parameters, including expected cargo upmass/downmass (as applicable), launch window and rendezvous phasing. The cargo spacecraft that berths to the ISS is required to meet a set of interface and verification requirements for each mission, which NASA reviews and dispositions for each flight. Launch vehicle performance and capability were previously demonstrated under the COTS program prior to the CRS contract vehicle launches. In addition, the Federal Aviation Administration reviews safety and performance data of the launch vehicles prior to each flight to ensure public safety and is responsible for issuing a license of each vehicle’s launch and reentry. As NASA does not contractually qualify or verify the commercial partner launch vehicles, additional information on these vehicles and their version history should be requested from the relevant company.

Question. I am aware that a number of significant anomalies have occurred with CRS launch vehicles, including seawater intrusion, engine loss on ascent, and the insertion of a secondary payload in the improper orbit just to name a few. What is the probability that such significant anomalies will occur with CRS launch vehicles and what insight does NASA have in that regard? What risk mitigation efforts are underway to ensure that these anomalies are not repeated? What is NASA’s recourse when such significant anomalies occur; for instance what can be done about the loss of or damage to payloads returning from the ISS?

Answer. Launch vehicle development and operation is a technically challenging undertaking. Efforts to reduce risks through design reviews, testing at component and system levels, and early identification of any risks are utilized to preclude anomalies.

NASA participates in various production and operations contract milestones with the vendors to gain insight on both launch vehicle and spacecraft, as part of the CRS contract. NASA insight is defined as gaining an understanding necessary to knowledgeably assess the risk of contractor actions or lack thereof through observation of manufacturing or tests, review of documentation, and attendance at meetings and reviews.

The CRS contractor has the lead for anomaly resolution for phases of the mission during which they have responsibility. In the event of an anomaly during a mission, a contractor-chaired team will determine the cause of the anomaly or failure to evaluate all available data in order to determine if the mission failure was attributable to the vehicle or conditions for which the contractor is expected to control or avoid. The appropriate corrective actions necessary to address any issues will be determined and coordinated with NASA. NASA is able to fully participate in these investigation and proposed mitigation implementation. In addition, NASA participates as necessary in any issues/anomalies that are identified during production as well.

As part of determining mission success or failure after each return mission, NASA conducts a post-flight assessment of the condition of the payloads to determine if their condition meets the agreed to requirements. If the return payloads do not meet the requirements or are lost, and the mission therefore is only a partial success or a failure, NASA withholds a portion, or the entire, final payment for that mission.

Question. Administrator during the Committee's NASA hearing on the fiscal year 2014 budget last year, you stated: ". . . we don't know the precise amount, because we don't get, you know, fiscal accounting the way that would be required if we were working under a FAR-based contract, but they are now working under FAR-based contracts in the CCiCap program . . . We have total insight into everything that they're doing, so when we get to ready to roll out the request for proposals here this summer, we'll be confident that we know what they're doing." These comments led me to believe that FAR-based contracts would provide greater transparency and oversight than the existing Space Act Agreements. However, NASA has stated that it will waive significant portions of the FAR contracting requirements under the proposed CctCap RFP, including those related to certified cost and pricing data. Could you explain how a waiver of these requirements is consistent with your previous statements encouraging transparency and accountability?

Answer. NASA did not waive "significant" portions of the Federal Acquisition Regulation (FAR) contracting requirements under the Commercial Crew Transportation Capability (CCtCap) Request for Proposal (RFP). NASA modified several standard FAR provisions to better align with the contract requirements, which is part of the procurement process for any solicitation. NASA approved waivers/deviations for several RFP clauses, as permitted by the FAR, because the resultant clauses were appropriate and justified for the CCtCap procurement. NASA was fully transparent with industry regarding the waivers and deviations under CCtCap RFP.

NASA did not waive any certification requirements for the initial award of proposals under CCtCap. FAR 15.403-1 does not allow the Government to require Certified Cost or Pricing Data for procurements when there is expected to be adequate price competition through multiple proposals and price is a significant factor in the evaluation, as is the case for CCtCap. As part of the competitive price evaluation, the RFP required all offerors to submit data other than cost or pricing data to assist the Government in determining price reasonableness. NASA did waive FAR 15.403-4(a) and (b)—relating to certified cost or pricing data after contract award. This waiver only applies to potential contract modifications and task orders in excess of \$700,000 during contract performance (i.e., after the award of the base contract). This was done in order to reduce administrative costs associated with the certification of cost accounting systems and to increase competition. Like the initial contract award process, NASA will require contractors to provide data other than certified cost or pricing data to assist in price reasonableness determinations for future modifications and task orders under the contract.

In addition, NASA will have significantly greater oversight under the CCtCap contract than it had under Space Act agreements, through certification of compliance with NASA requirements, inspections, anomaly investigation and safety review of hazardous flight operations. NASA will have full technical insight into commercial vehicle design and performance, and has achieved a head start on this through the recently completed first phase of this procurement, the Certification Products Contracts.

Question. How is NASA weighing individual company investment in the current round of awards to ensure that this is a public-private partnership and not a taxpayer funded development program?

Answer. CCtCap is a firm fixed price contract and, as such, NASA is concerned with the price to the Government and the contractor's ability to perform the work at that price. As part of ensuring lifecycle cost management, NASA is evaluating the financial resources proposed to meet the milestones throughout the contract and how the total investment affects performance risk. NASA is not evaluating the magnitude of company investment.

Question. What is the current investment level for each participant in Commercial Crew thus far?

Answer. By the time the Commercial Crew Integrated Capability (CCiCap) is completed, NASA's investment in the three rounds of Commercial Crew Space Act Agreements (CCDev, CCDev2, and CCiCap) will be \$1.533 billion. Based on representations by the companies, our industry partners will have made an aggregate investment of approximately 20 percent of the total investment through the completion of the Commercial Crew Integrated Capability (CCiCap) phase. The actual aggregate investment of the partners may be higher to the extent that industry has absorbed cost growth associated with hardware development challenges and schedule delays. A further level of definition regarding any company's investment in the Commercial Crew Program would be proprietary to that company and is Sensitive But Unclassified information.

NASA has also provided an aggregate \$29 million to industry for the Certification Products Contracts. The corresponding partner investment is unknown, but the

partners are believed to have contributed to this activity, as the generation of these products has proven to be even more significant than we or they anticipated.

Question. I am concerned about the lack of transparency inherent in Space Act Agreements and, in particular, the lack of information NASA has regarding the private investment in both the commercial cargo and crew program. Does NASA know how much each participant has invested in the cargo program or the crew program? Are the companies required to disclose their investments as a condition of their contract with NASA?

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The industry partner investment under the COTS development program was a higher percentage than the percentage for crew development. For the ISS Commercial Resupply Services (CRS) contract, NASA is purchasing services under fixed-price contracts. NASA has no insight into any partner investments made in delivering that service. Companies have not been required to disclose their investments as a condition of award of a crew or cargo contract. The CRS, CPC, and pending CCtCap contracts are all fixed-price contracts, which do not require the contractor to disclose its expenses or investments.

Question. Is it reasonable that to speculate that these companies have invested less than 5 percent of their own money in these ventures? If they are not required to disclose their investments, how do you know whether they have invested \$5 or \$5 million?

Answer. By the time the Commercial Crew Integrated Capability (CCiCap) is completed, NASA's investment in the three rounds of Commercial Crew Space Act Agreements (CCDev, CCDev2, and CCiCap) will be \$1.533 billion. Based on representations by the companies, our industry partners will have made an aggregate investment of approximately 20 percent of the total investment through the completion of the Commercial Crew Integrated Capability (CCiCap) phase. The actual aggregate investment of the partners may be higher to the extent that industry has absorbed cost growth associated with hardware development challenges and schedule delays. A further level of definition regarding any company's investment in the Commercial Crew Program would be proprietary to that company and is Sensitive But Unclassified information.

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Question. NASA has a significant number of launches that it intends to launch on board Space X rockets over the next several years. In 2014 alone, NASA ISS resupply missions account for 4 of the 13 missions listed on their manifest. However, we are now in May and only 2 of the 13 missions listed have launched. With only 8 months remaining, they will have to launch every 22 days for the rest of the year. This would be more launches in 8 months of a Falcon 9 than have been completed over the past 3 years. Given the critical nature of resupplying the ISS, how is NASA preparing for the possibility that the scheduled launches to the ISS by Space X will not occur as scheduled?

Answer. The remaining two flights planned for fiscal year 2014 are planned for July 2014 (Orb-2) and August 2014 (SpX-4). In addition, the European Space Agency plans to launch its Automated Transfer Vehicle-5 this summer. The commercial strategy does not rely on a single flight or provider, but if CRS cargo delivery flights fall behind schedule, NASA will prioritize the cargo carried on those flights on the basis of payload criticality to the maintenance and operation of ISS. Beyond meeting these requirements, NASA will first satisfy additional requirements associated with NASA utilization missions including NASA-sponsored Biological and Physical Research, the Human Research Program and Technology Development and Demonstration projects necessary to NASA's exploration mission. Finally, NASA would work together with the Center for the Advancement of Science in Space (CASIS), which manages the National Laboratory aspects of the ISS to determine the priority of utilization-related cargo, including equipment and samples supporting research objectives by organizations other than NASA.

QUESTIONS SUBMITTED BY SENATOR LISA MURKOWSKI

SCIENCE MISSIONS

Question. The National Aeronautics and Space Administration (NASA) is identified as a supporting Federal agency for 9 elements of the Implementation Plan for the National Strategy for the Arctic Region, including:

- Enhance Arctic Domain Awareness;
- Develop a framework of observations and modeling to support forecasting and prediction of sea ice;
- Implement the Pilot Distributed Biological Observatory in the Pacific Arctic;
- Develop Integrated Ecosystem Research in the Beaufort and Chukchi Seas;
- Improve Understanding of Glacial Dynamics;
- Understand Terrestrial Ecosystem Processes;
- Understand Atmospheric Processes to Improve Climate Predictions;
- Support a Circumpolar Arctic Observing System; and
- Integrate Arctic Regional Models.

Despite this long list of action items, NASA references only two Arctic-oriented projects in its fiscal year 2015 Budget Estimates document:

- Operation IceBridge*—which consists of 26 science flights from Fairbanks and Greenland to collect data on sea ice, ice sheets and glaciers; and
- ICESat-2*—which will continue assessments of polar ice changes once launched in 2017.

These are important projects, and I am not going to criticize NASA for pursuing good work related to the Arctic. However, as I have been with many other Federal agencies I am concerned that the statements made in the Administration's Arctic Implementation Plan are not matched with resources to support actual work when it comes to NASA. Administrator Bolden, could you please provide me with information regarding your agency's fiscal year 2015 budget support for the 9 action items where NASA is identified as a supporting agency?

Answer. NASA's fiscal year 2015 budget estimates document does not cover all of the agency's activities because it was focused on major items listed as specific milestones in the strategy. The strategy and milestones were derived from the Arctic Research Plan fiscal year 2013–2017 developed by the Interagency Arctic Research Policy Committee (IARPC), in which NASA regularly participates. Apart from our major investments in IceBridge and ICESat 2, NASA spends an additional approximately \$20 million on Arctic research across a range of NASA science-based programs, as follows:

- Cryospheric Sciences*: Supporting a diverse suite of studies of Arctic sea and land ice. The sea ice studies are especially focused on the connections of changes in sea ice cover to climate drivers. The land ice studies are especially relevant to estimates of present and future sea level rise.
- Interdisciplinary Sciences*: Supporting studies of the impacts of Arctic change on the global system, and ice–ocean interaction.
- Making Earth System data records for Use in Research Environments (MEASUREs)*: Supporting various studies compiling information on Arctic sea ice, Greenland ice sheet, and North American snow cover.
- Modeling and Assimilation*: Supporting model development for sea ice components of global climate models and ice sheet models relevant to sea level rise.

—*Carbon Cycle*: Supporting development of the Arctic Boreal Vulnerability Experiment (ABOVE) campaign, a major study planned for 2015 and beyond to assess the changes occurring in Arctic vegetation.

—*Earth Ventures*: Supporting aircraft studies to assess the release of greenhouse gases from the thawing permafrost.

These funded activities contribute to all of the elements listed above, and detail can be provided as desired.

Question. As Arctic ice continues to diminish and more and more nations engage in that region, I have encouraged this Administration to lead in the Arctic and dedicate the resources necessary to back up our claims of Arctic engagement.

Administrator Bolden, I am aware that the Canadian Government is looking at a new satellite mission that would help maintain satellite communications and weather observations in the Arctic region for years to come. This comes at a time when our own civil weather satellite capability faces an “unacceptably high” probability of a gap in observations by 2017. The U.S. Navy in its Arctic Roadmap has highlighted the importance working with Canada on Arctic communications and weather. In addition, a recent GAO report cited that weather forecasts over the Arctic needed to be improved.

While I understand that the National Oceanic and Atmospheric Administration (NOAA) is the lead agency for weather satellite programs, I would like to know your views on satellite observations needed in an increasingly ice-diminished Arctic. Also, could you please describe how NASA is engaged with NOAA and the Department of State (DOS) to evaluate the benefits that a Canadian communications and weather satellite mission would have to the U.S. and our monitoring capabilities?

Answer. Satellite observations of the Arctic region have already proven to be important for advancing our understanding of the ongoing changes there, as well as enabling the U.S. to plan for the large effects that can be expected in the future.

NASA’s current and planned satellite observations provide extensive coverage of the Arctic. Most of NASA’s satellites are in polar orbits, which fly over each pole approximately 15 times per day, gathering data routinely during these overpasses and transmitting and processing data back on the ground for use by the research and applications communities. Planned satellite data such as the ICESat 2 mission (launch in 2018) and GRACE Follow On (launch in 2017) will provide particularly important measurements of ice sheet topography and mass, respectively. NASA coordinates with the Canadian Space Agency and that nation’s Environment Canada agency, both bilaterally and through international coordinating entities such as the Committee on Earth Observation Satellites (CEOS) and the Coordinating Group on Meteorological Satellites (CGMS); NOAA participates along with NASA in both CEOS and CGMS. NASA Earth Science Division and NOAA/National Environmental Satellite, Data, and Information Service (NESDIS) regularly exchange information on international interactions and potential future opportunities in the context of the NASA–NOAA Joint Working Group mandated by Section 306 the NASA Authorization Act of 2005. NASA also regularly participates with the Department of State on Arctic-related issues, including those associated with the Arctic Council, and in interagency activities such as IARPC and the development of the National Arctic Strategy and the associated Implementation Plan.

Although we are aware through CEOS of Canada’s interest in developing a Polar Communications and Weather (PCW) satellite mission, their plans have not reached the stage of maturity at which they are presented for detailed discussion among the U.S. Government agencies.

Question. As an Alaskan, I have an acute interest in the weather data provided by the Joint Polar Satellite System (JPSS). The impending gap in this critical data and the lack of robustness in the overall program is of great concern to the Nation and especially to my constituents. Secretary Pritzker addressed the gap in a recent hearing with this committee (April 10, 2014) by stating, “. . . what we’re trying to do is move JPSS–2 so that there’s greater overlap with the JPSS–1 program. To do that, we need to have the procurement of the instruments, the bus, the ground system, and the launch.”

As the acquisition agent, what is NASA currently doing to assist NOAA in accelerating JPSS–2?

Answer. NASA and NOAA are assessing options to possibly accelerate the JPSS–2 Launch Readiness Date (LRD) from its current baseline of first quarter of fiscal year 2022 in order to reduce the probability of a gap between JPSS–1 and JPSS–2. NASA is actively working procurement actions for the complement of instruments as well as the spacecraft bus in order to get all under contract as soon as possible. The schedules of the instruments currently drive the JPSS–2 schedule. One instrument is already under contract, and final contract negotiations are underway for the other instruments. NASA plans to have all JPSS–2 instrument contracts definitized

by Summer 2014. In addition, NASA plans to release the Request for Offer for the JPSS-2 spacecraft bus on schedule by the end of the fourth quarter fiscal year 2014. NASA is applying lessons learned from the JPSS-1 instruments and spacecraft manufacturing, integration and testing phase to the JPSS-2 mission planning, which should permit some level of acceleration.

CONCLUSION OF HEARINGS

Senator MIKULSKI. This subcommittee stands in recess subject to the call of the Chair.

[Whereupon, at 10:30 a.m., Thursday, May 1, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2015

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, DC.

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The subcommittee was unable to hold hearings on nondepartmental witnesses. The statements and letters of those submitting written testimony are as follows:]

PREPARED STATEMENT OF THE AMERICAN GEOSCIENCES INSTITUTE

Thank you for this opportunity to provide the American Geosciences Institute's perspective on fiscal year 2015 appropriations for geoscience programs within the subcommittee's jurisdiction.

The American Geosciences Institute (AGI) supports earth science research sustained by the National Science Foundation (NSF), the National Oceanic and Atmospheric Administration (NOAA), the National Institute of Standards and Technology (NIST), and the National Aeronautics and Space Administration (NASA). Frontier research on the Earth, energy, and the environment has fueled economic growth, mitigated losses, and sustained our quality of life. The subcommittee's leadership in supporting geoscience-based research is even more critical as our Nation competes with rapidly developing countries, such as China and India, for energy, mineral, air, and water resources. Our Nation needs skilled geoscientists to help explore, assess, and develop Earth's resources in a strategic, sustainable, and environmentally sound manner and to help understand, evaluate, and reduce our risks to hazards. AGI recognizes our Nation's financial challenges and also the necessity for steady and sustained growth in investment in science and technology for the future. AGI respectfully requests \$1.322 billion for the Geoscience Directorate at NSF and \$1.853 billion for NASA Earth Science programs to keep pace with inflation. AGI supports the President's request for \$5.497 billion for NOAA and \$900 million for NIST.

AGI is a nonprofit federation of about 50 geoscientific and professional societies representing more than 250,000 geologists, geophysicists, and other Earth scientists. Founded in 1948, AGI provides information services to geoscientists, serves as a voice for shared interests in our profession, plays a major role in strengthening geoscience education, and strives to increase public awareness of the vital role the geosciences play in society's use of resources, resilience to hazards, and the health of the environment.

National Science Foundation.—AGI supports a minimum increase of \$18 million over the President's request for the Geosciences Directorate to keep pace with inflation, and an overall budget of \$7.255 billion for NSF. NSF is vital national incubator for scientific breakthroughs that will fuel economic growth and for developing the educated workforce that is needed to drive innovation and global leadership in science, engineering, and technology. AGI believes that investment in NSF programs, where research is funded based on competitive scientific merit and peer review, will pay important dividends in our understanding of the world we inhabit and will play a critical role in maintaining U.S. dominance in science and technology long into the future.

NSF Geosciences Directorate.—AGI is very disappointed that the President's request for a 0.1 percent increase for the Geoscience Directorate (GEO) does not come

close to matching inflation, which averaged 1.5 percent in 2013, and thus presents an effective cut in funding for geoscience research and infrastructure. AGI recognizes the challenges faced by Congress in balancing the Nation's budget and respectfully asks the subcommittee to provide the Geosciences Directorate with a modest funding increase of 1.5 percent over fiscal year 2014 levels, which would do no more than match inflation and maintain current funding levels for the geosciences.

AGI asks the subcommittee to provide \$254 million for Atmospheric and Geospace Sciences, \$180 million for Earth Sciences, \$362 million for Ocean Sciences, \$85 million for Integrative and Collaborative Education and Research (ICER), and \$441 million for Polar Programs, for a total investment of \$1,322 million in NSF's Geoscience Directorate.

The Geosciences Directorate (GEO) is the principal source of Federal support for academic earth scientists and their students who are seeking to understand the Earth and the processes that sustain and transform life on this planet. The Geosciences Directorate provides about 65 percent of Federal funding for basic geoscience research at academic institutions. According to NSF data, the Directorate distributes about 1,700 awards annually involving about 14,700 people and supporting indispensable research infrastructure and instruments.

Understanding the Earth improves our ability to anticipate and mitigate the effects of natural hazards such as earthquakes, landslides, and tsunamis, to make long- and short-term weather forecasts, to locate and appropriately develop earth resources, to sustainably manage our environment, and to make well-informed decisions at all levels from the individual citizen to national and international policy makers.

NSF's Division of Polar Programs (PLR) funds basic research in the Arctic and Antarctic and manages all U.S. activities in Antarctica as a single, integrated program. The polar regions are the focus of intense scientific and political interest as new navigation routes are opening access to resources and presenting security challenges. NSF-funded research and infrastructure are helping the United States understand environmental conditions in extreme environments, develop polar technology, and construct data-driven strategic and security policies. AGI suggests a minimum of \$441 million for the Division of Polar Programs.

NSF funds facilities that enable researchers to access locations, data, and technologies that serve the overall research community. AGI strongly supports robust and steady funding for infrastructure and the operation and maintenance of major facilities, including the Academic Research Fleet, Geodetic and Seismological Facilities for the Advancement of Geosciences and EarthScope (GAGE and SAGE), Ocean Drilling Activities, the Ocean Observatories Initiative, and the National Center for Atmospheric Research (NCAR).

Directorate for Education and Human Resources.—NSF support for geoscience education must be maintained if we are to meet the demand for a skilled workforce and an informed citizenry prepared to make well-informed decisions about the management of our planet and its resources. Outreach and education are important at all levels from K–12 through graduate level and should include formal and informal outlets to facilitate lifelong learning. AGI strongly supports funding for geoscience education at all levels and particularly supports programs to diversify the geoscience student population and workforce. AGI urges Congress to fund programs in NSF's Directorate for Education and Human Resources, including NSF Scholarships in STEM, Graduate Research Fellowships, Climate Change Education, Research Experiences for Undergraduates, and Advancing Informal STEM Education.

National Oceanic and Atmospheric Administration.—AGI supports the President's request for \$5.497 billion for NOAA. We hope the subcommittee will continue to support the National Weather Service (NWS), Oceanic and Atmospheric Research (OAR), National Ocean Service (NOS), and the National Environment Satellite, Data and Information Service (NESDIS). These programs are critical for understanding and mitigating natural and human-induced hazards in the Earth system while sustaining our natural resources. Geoscientists rely on NOAA for much of the data and long-term monitoring that enable research and rapid response to events such as hurricanes, drought, marine oil spills, and a range of coastal phenomena.

National Institute of Standards and Technology.—AGI supports the President's request for \$900 million for the NIST. Basic research at NIST is conducted by earth scientists and geotechnical engineers and used by the public and private sectors on a daily basis. The research conducted and the information gained is essential for understanding natural hazards and for identifying the infrastructure needed to build resilient communities and stimulate economic growth. Advanced infrastructure research will help to reduce the estimated average of \$52 billion in annual losses caused by floods, fires, and earthquakes.

NIST is the lead agency for the National Earthquake Hazard Reduction Program (NEHRP), but has received only a small portion of authorized and essential funding in the past. AGI strongly supports the reauthorization of the National Earthquake Hazards Reduction Program (NEHRP) in this Congress. We hope the appropriations subcommittee will continue to support this effective and cohesive program, even if the authorizing legislation takes more time to complete. NEHRP is an excellent example of how to coordinate different entities for the safety and security of all. NEHRP develops effective practices and policies for earthquake loss reduction and accelerates their implementation; improves techniques for reducing earthquake vulnerabilities of facilities and systems; improves earthquake hazards identification and risk assessment methods and their use; and improves the understanding of earthquakes and their effects.

National Aeronautic and Space Administration.—AGI is disappointed that the President proposes a 3.1 percent cut to Earth Science functions at NASA. NASA needs to maintain its current fleet of Earth-observing satellites, launch the next tier, and accelerate development of the subsequent tier of missions. The observations and understanding about our dynamic Earth gained from these missions is critical to research and to life-sustaining functions like weather forecasting, emergency service response and planning, and tracking ash plumes or oil spills that disrupt the economy and the environment. We respectfully suggest that funding levels should at least match inflation and therefore we ask that \$1,853 million be appropriated for Earth Science Programs within the NASA's Science Mission Directorate.

AGI applauds NASA's successful launch of the Landsat 8 satellite in February, 2013, which will enable the continuation of a 40-year record of Earth observations in conjunctions with the U.S. Geological Survey (USGS). Geoscientists use Landsat data to monitor, predict, and help land managers to address drought, wildfires, changes in vegetation, and other changes to the Earth's surface. AGI strongly supports the NASA/USGS Sustainability Land Imaging Architecture Study Team which is examining options for continuing Landsat-compatible observations into the future and urges Congress to support and fund their efforts.

Thank you for the opportunity to present this testimony to the subcommittee. If you would like any additional information for the record, please contact Maeve Boland at 703-379-2480, ext. 228 voice, 703-379-7563 fax, mboland@agiweb.org, or 4220 King Street, Alexandria VA 22302-1502.

PREPARED STATEMENT OF THE AMERICAN INSTITUTE OF BIOLOGICAL SCIENCES

The American Institute of Biological Sciences (AIBS) appreciates the opportunity to provide testimony in support of fiscal year 2015 appropriations for the National Science Foundation (NSF). We encourage Congress to provide NSF with at least \$7.5 billion in fiscal year 2015.

The AIBS is a nonprofit scientific association dedicated to advancing biological research and education for the welfare of society. AIBS works to ensure that the public, legislators, funders, and the community of biologists have access to and use information that will guide them in making informed decisions about matters that require biological knowledge. Founded in 1947 as a part of the National Academy of Sciences, AIBS became an independent, member-governed organization in the 1950s. Today, AIBS has more than 140 member organizations and is headquartered in Reston, Virginia, with a Public Policy Office in Washington, DC.

NSF AND INNOVATION

The NSF is an important engine that helps power our Nation's economic growth. Through its competitive, peer-reviewed research grants, NSF supports the development of new knowledge that will help to solve the most challenging problems facing society, and will lead to new scientific discoveries, patents, and jobs. The agency's education and training programs are helping to ensure that the next generation has the scientific, technical, and mathematical skills employers are seeking. Investments in research equipment and facilities enable the country to continue to innovate and compete globally.

These efforts, however, require a sustained Federal investment. Unpredictable swings in Federal funding can disrupt research programs, create uncertainty in the research community, and stall the development of the next great idea.

The budget request for fiscal year 2015 will flat line investments in foundational research at a time when other nations are accelerating their commitments to science. The proposed \$1.5 million cut from the Research and Related Activities account may seem small, but coupled with an anticipated 1.7 percent increase in inflation, NSF research funding would decline by \$100 million next year.

The scientific community recognizes that current fiscal conditions have necessarily constrained Federal funding, but NSF is a sound investment that pays dividends. The use of peer-review to evaluate and select the best proposals means that NSF is funding the highest quality research.

BIOLOGICAL SCIENCES DIRECTORATE

The NSF is the primary Federal funding source for basic biological research at our Nation's universities and colleges. The NSF provides approximately 66 percent of extramural Federal support for non-medical, fundamental biological and environmental research at academic institutions.

A reduction of \$12.8 million is proposed in fiscal year 2015 from the Biological Sciences Directorate (BIO). This is a considerably larger cut than is proposed for any other research directorate. If enacted, the funding rate for biological and environmental research would drop to 18 percent.

The research supported by NSF is unique from the science funded by other Federal programs. Unlike most Federal agencies, which focus on applied research, NSF supports research that advances the frontiers of our knowledge about biodiversity, genetics, physiology, and ecosystems. Recent discoveries that stem from NSF-funded research include:

- Discovering that members of a particular kind of bacteria work together to find food and survive under harsh conditions. This discovery could lead to new antibiotics or development of new pest-resistant seeds.
- Developing a new technique to manipulate the genes of grasshoppers in order to prevent them from transforming into crop-destroying locusts.
- Studying the impacts of the death of lodgepole pine forests due to bark beetle infestations on the timing of snowmelt and water quality.
- Working to identify the pathway that leads to cells forming into an individual body, information that could lead to improved cancer treatments.

BIO funds research in the foundational disciplines within biology. In addition to supporting our understanding of how organisms and ecosystems function, BIO supports interdisciplinary research at the frontiers of science.

Equally important, BIO provides essential support for our Nation's place-based biological research, such as field stations and natural science collections. The Long-Term Ecological Research program supports fundamental ecological research over long time periods and large spatial scales, the results of which provide information necessary for the identification and resolution of environmental problems.

The fiscal year 2015 budget request would sustain an effort to digitize high priority specimens in U.S. natural science collections. This investment is helping to drive new fields of inquiry and helping scientists and the public gain access to rare and irreplaceable biological specimens and associated data. These efforts are stimulating the development of new computer hardware and software, digitization technologies, and database management tools.

The Dimensions of Biodiversity program supports cross-disciplinary research to describe and understand the scope and role of life on Earth. Despite centuries of discovery, most of our planet's biological diversity (species) is unknown. This lack of knowledge is particularly troubling given the rapid and permanent loss of global biodiversity. A better understanding of life on Earth will help us to make new bio-based discoveries in the realms of food, fiber, fuel, pharmaceuticals, and bio-inspired innovation. It will also increase our understanding of life on Earth and how biological systems and functions respond to environmental changes.

The Major Research Equipment and Facilities Construction account is funding the construction of the National Ecological Observatory Network (NEON). Once completed, NEON will provide the infrastructure necessary to collect data across the United States on the effects of climate change, land use change, water use, and invasive species on natural resources and biodiversity. This information will be valuable to scientists, resource managers, and government decision makers as they seek to better understand and manage natural systems.

STEM EDUCATION

NSF plays a central role in science, technology, engineering, and mathematics (STEM) education. Support for the scientific training of undergraduate and graduate students is critically important to our research enterprise. Students recruited into science through NSF programs and research experiences are our next generation of innovators and educators. In short, NSF grants are essential to the Nation's goal of sustaining our global leadership in science, technology, engineering and mathematics, and reigniting our economic engines.

NSF's education initiatives support STEM education innovation from elementary school through post-graduate. The Graduate Research Fellowship program is an important part of our national effort to recruit and retain the best and brightest STEM students. NSF proposes to increase both the number of new fellowships as well as the fellowship stipend in fiscal year 2015. The Faculty Early Career Development program (CAREER) supports young faculty who are dedicated to integrating research with teaching and learning.

The administration once again proposes major changes to STEM education programs. Although the plans have been scaled back since the fiscal year 2014 budget request, we are concerned that implementation of these changes will proceed before the full details are known. Given the considerable consequences for student education and training, we hope that Congress will provide careful consideration of the potential impacts to our Nation's pipeline of researchers and STEM-skilled workers.

CONCLUSION

Continued investments in the biological sciences are critical. Sustained support for NSF will help spur economic growth and innovation, and continue to build scientific capacity at a time when our Nation is at risk of being outpaced by our global competitors. Please support an investment of at least \$7.5 billion for NSF for fiscal year 2015.

Thank you for your thoughtful consideration of this request and for your prior efforts on behalf of science and the National Science Foundation.

PREPARED STATEMENT OF THE AMERICAN PHYSIOLOGICAL SOCIETY

The American Physiological Society (APS) thanks you for your sustained support of science at the National Science Foundation (NSF) and the National Aeronautics and Space Administration (NASA). The APS is a professional society, numbering more than 10,000 members, dedicated to fostering research and education as well as the dissemination of scientific knowledge concerning how the organs and systems of the body function. In this letter we offer our recommendations for fiscal year 2015 funding levels for these two agencies.

—The APS urges you to fund the fiscal year 2015 NSF budget at a net level of \$7.6 billion to prevent further erosion of program capacity.

—The APS urges you to restore cuts to NASA's life sciences research budgets and to increase funding for the Human Research Program.

NSF and NASA support scientific research and technology development programs that are critical to the future technological excellence and economic stability of the United States. Federal investment in research is critically important because breakthroughs in basic and translational research are the foundation for new technologies that help patients, fuel our economy, and provide jobs.

NSF FUNDS OUTSTANDING RESEARCH AND EDUCATION PROGRAMS

NSF provides support for approximately 20 percent of all federally funded basic science and is the major source of support for non-medical biology research, including integrative, comparative, and evolutionary biology, as well as interdisciplinary biological research. It has been shown time and time again that the knowledge gained through basic biological research is the foundation for more applied studies that sustain the health of animals, humans and ecosystems.

The majority of the NSF funding is awarded through competitive, merit-based peer review, ensuring that the best possible projects are supported. Reviewers and NSF officials consider both the intellectual merit of each research proposal, and also the broader impacts. The broader impact criteria are defined as the potential for research to benefit society and achieve specific outcomes. NSF has an exemplary record of accomplishment in terms of funding research that produces results with far-reaching potential. Since its inception in 1950, NSF has supported the work of 212 Nobel laureates.

Biological research is just one part of the NSF portfolio. The APS believes that each of the NSF directorates support research that is critical to NSF's mission "to promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense . . ." ¹ Collaboration between scientific disciplines is increasingly recognized as the best and most efficient way to advance science. This will only be possible with strong support for all disciplines of research.

¹ <http://www.nsf.gov>.

In addition to funding innovative research in labs around the country, the NSF education programs foster the next generation of scientists. The APS is proud to have partnered with NSF in programs to provide training opportunities and career development activities to enhance the participation of underrepresented minorities in science. We believe that NSF is uniquely suited to foster science education programs of the highest quality, and we recommend that Congress continue to provide Federal funds for science education through the NSF.

The APS joins the Federation of American Societies for Experimental Biology (FASEB) to recommend that the NSF be funded at a level of \$7.6 billion in fiscal year 2015 so that it can support a sustainable research program that follows a funding trajectory reflecting the level authorized in the America COMPETES Act.²

SUPPORT FOR LIFE SCIENCES RESEARCH SHOULD BE INCREASED AT NASA

NASA sponsors research across a broad range of the basic and applied life sciences, including gravitational biology, biomedical research and the Human Research Program (HRP). The gravitational biology and biomedical research programs explore fundamental scientific questions through research carried out both on Earth and aboard the International Space Station, which provides an environment for the conduct of experiments in space. The HRP at NASA conducts unique research and develops countermeasures with the goal of enabling safe and productive human space exploration.

During prolonged space flight, the physiological changes that occur due to microgravity, increased exposure to radiation, confined living quarters, and alterations in eating and sleeping patterns can lead to debilitating conditions and reduced ability to perform tasks. APS scientists are actively engaged in research that explores the physiological basis of these problems with the goal of contributing to the identification of therapeutic targets and development of countermeasures. The knowledge gained from this research is not only relevant to humans traveling in space, but is also directly applicable to human health on Earth. For example, some of the muscle and bone changes observed in astronauts after prolonged space flight are similar to those seen in patients confined to bed rest during periods of critical illness as well as during the process of aging.

NASA is the only agency whose mission addresses the biomedical challenges of human space exploration. Over the past several years, the amount of money available for conducting this kind of research at NASA has dwindled. The overall number of projects and investigators supported by NASA through the HRP, National Space Biomedical Research Institute and Exploration and Technology Development program has decreased markedly (<https://taskbook.nasaprs.com/Publication/>). In the past, appropriations legislation specified funding levels for biomedical research and gravitational biology, but recent internal reorganizations at NASA have made it difficult to understand how much money is being spent on these programs from year to year. The APS recommends that funding streams for these important fundamental research programs be clearly identified and tracked within the NASA budget. The APS also recommends restoration of cuts to peer-reviewed life sciences research.

As highlighted above, investment in the basic sciences is critical to our Nation's technological and economic future. The APS urges you to make every effort to provide these agencies with increased funding for fiscal year 2015.

PREPARED STATEMENT OF THE AMERICAN SOCIETY FOR MICROBIOLOGY

The American Society for Microbiology (ASM), the largest single life science Society with over 39,000 members, wishes to submit the following statement in support of increased funding for the National Science Foundation (NSF) in fiscal year 2015. The NSF is the only Federal agency that supports innovative basic research across all fields of science and engineering. For over six decades, the NSF has invested in basic research and education at the frontiers of science and engineering, including high risk and transformative research not supported by other funding sources. In fiscal year 2013, 81 percent of the NSF budget supported research and related activities at colleges, universities and academic consortia and NSF reviewed 49,000 grant proposals and made 10,844 new awards to 1,922 institutions in all states across the Nation.

An estimated 299,000 people were directly involved in NSF programs and activities in fiscal year 2013. NSF programs indirectly impact millions (e.g., K-12 students and teachers, general public, institutions like museums). NSF grants sup-

² www.faseb.org/fundingreport.

ported eight of the 13 Nobel Prize 2013 winners at some point in their research careers. NSF has now funded 212 Nobel laureates since the agency began, 41 of whom also had been NSF Graduate Research Fellows. Since 1952, the agency has funded nearly 47,800 graduate research fellows.

NSF support of multidisciplinary research and all levels of education is critical to improving the future of the Nation's science and engineering enterprise and our global competitive edge. NSF's National Science Board just released its latest biennial Science and Engineering Indicators report, a detailed analysis of the Nation's position in global science and technology. Since 2001, the share of the world's R&D performed in the United States has decreased from 37 percent to 30 percent, while that performed by Asian countries grew from 25 percent to 34 percent. It is critical to increase the NSF budget to help reverse this worrisome trend.

NSF BUILDS R&D INFRASTRUCTURE

Through competitive grants, contracts and fellowships, NSF builds partnerships among industry, academia and other R&D stakeholders which expands the Nation's technical workforce. The NSF supports multidisciplinary research, cutting edge facilities, and initiatives and consortia. Examples are the National Big Data R&D Initiative launched in 2012 and NSF's Ecology and Evolution of Infectious Diseases Initiative (EEID). In fiscal year 2013, the NSF invested more than \$17 million in 60 multidisciplinary projects to employ new computational analyses essential to data driven STEM breakthroughs. The effort was part of over \$75 million spent in fiscal year 2013 to advance software, networking, data sciences and workforce training to support all STEM disciplines, via NSF's Cyberinfrastructure Framework for 21st Century Science and Engineering.

Funding from NSF builds local R&D infrastructures through the long standing Experimental Program to Stimulate Competitive Research (EPSCoR) program. In mid-2013, four newly funded projects were in the EPSCoR portfolio: (1) a New England consortium focused on pathogenic bacteria in coastal regions, their environmental and economic impacts and decisionmaking through human interactions with natural systems; (2) a three State study of high elevation water resources, to create better computer models related to water quality; (3) a joint project in North and South Dakota to develop processing methods for converting biomass into renewable energy resources; and (4) a three State collaboration in New England placing a network of environmental sensors in each State, to collect data on carbon and nutrients in watersheds over time.

NSF partnerships with academia are vital to energizing the U.S. workforce in science, technology, engineering and mathematics (STEM). The NSF responds to wide spread concerns about future workforce shortages across STEM disciplines. An example of NSF's STEM education strategy are five STEM projects funded last September involving multiple institutions in five States, to increase STEM participation of women and girls, underrepresented minorities and underserved rural areas. The nearly \$4 million in EPSCoR grants will pilot new methods among students from middle school to early career levels.

Another example is the diverse 2013 class of NSF Graduate Research Fellows, 2,000 young researchers from 434 U.S. baccalaureate institutions, including 1,102 women, 390 from underrepresented minority groups, 51 with disabilities and 28 veterans. Forty percent indicated interdisciplinary fields of study. In mid-2013, NSF announced the first 53 recipients of the new Graduate Research Opportunities Worldwide (GROW) program, partnering with 12 countries to place NSF research fellows in institutions abroad.

NSF also collaborates with the private sector to boost R&D entrepreneurs in the United States, in part through the competitive Small Business Innovation Research (SBIR)/Small Business Technology Transfer program. In October, under an agreement between NSF and the Biotechnology Industry Organization, 10 NSF funded early stage biotech companies presented at the 12th annual BIO Investor Forum to begin raising funds in the private sector. The startups focus on drug discovery, diagnostics and other platform technologies.

NSF SUPPORTED MICROBIOLOGY RESEARCH

Within NSF, the Directorate for Biological Sciences (BIO) sustains a research portfolio encompassing the wide breadth of biology from molecules to ecosystems and the global biosphere. BIO divisions include those focused on environmental biology, systems biology or molecular biology. The Emerging Frontiers Division invests in higher risk, interdisciplinary activities that show promise of generating productive innovations. BIO also supports R&D infrastructures like the National Ecological Observatory Network (NEON), biological field stations and computerized databases

that include DNA sequences of microorganisms. In fiscal year 2013, the directorate was able to fund 21 percent of the 5,937 grant proposals submitted by researchers. Research reported in the past year illustrates the diversity of BIO's funding:

- Bacterial DNA is more likely to be naturally transferred to human tumor cells than to normal, healthy cells, suggesting a role for bacterial gene transfer in cancer and other diseases associated with mutations. Scientists had already shown that bacteria can transfer DNA to animal genomes through previous genomic sequencing studies.
- For the first time, the banded mongoose in Botswana was identified as carrying *Leptospira interrogans*, the bacterial cause of leptospirosis, which is the world's most common illness transmitted to humans by animals.
- Scientific analysis of the 2011 record breaking algae bloom in Lake Erie blamed a "perfect storm" of weather events and agricultural practices, predicting more huge blooms in the future.
- An unusual soil bacterium is being used in modeling and simulations by computational biologists to study how individual cells might have evolved into more complicated configurations. *Myxococcus xanthus* organizes itself into multicellular, three dimensional structures made up of thousands of cells to hunt other microbes and survive in harsh conditions.
- The redwoods of California are being threatened by the combined effects of forest fires and sudden oak death disease, linked in 2000 to the plant pathogen *Phytophthora ramorum*. Flames carried into the tree canopy by the dead oaks scorch the crowns of surrounding redwoods.

Last August, BIO funded U.S. and United Kingdom scientists in four projects that could revolutionize farming methods: (1) to design a synthetic biological module that will "fix" nitrogen inside plant cells, by reengineering nitrogen fixing bacteria to build an N-fixing unit that can be transferred; (2) to rediscover a bacterium found only once (in the 1990s in a German charcoal pit) that contains a unique enzyme allowing nitrogen fixing in oxygen rich environments normally inhibitory to nitrogen fixing bacteria; (3) to genetically alter nitrogen fixing bacteria and a grass species similar to more complex cereals such as maize, to ensure a lock and key interaction between plant and microbe and maximize the amount of usable nitrogen delivered to the plant; and (4) to optimize practical applications of nitrogen fixing blue green algae and genetically engineer plant cells to fix atmospheric nitrogen directly.

The NSF Directorate for Geosciences (GEO) also funds microbiology research through studies of Earth's environment and the myriad roles played by microorganisms. In January, the directorate awarded grants to four new critical zone observatories, which join six existing CZOs to study the zone where Earth's surface meets the atmosphere and living organisms. The CZOs are the first research network to holistically investigate this zone, so important to water quality, food supplies, soil health and carbon storage.

Both GEO and BIO contribute to NSF's Ecology and Evolution of Infectious Diseases program jointly sponsored with the National Institutes of Health. EEID supports the study of ecological and biological mechanisms of environmental change that shape emergence and transmission of infectious diseases. Projects help understand how large scale events like habitat destruction can alter microbial diseases in humans and other animals. In 2013, new EEID grant recipients included studies on foot and mouth disease virus, honeybee killing parasites, impacts of livestock production practices on emerging drug resistant staphylococci bacteria and transmission of Tasmanian devil facial tumor disease. Effects of climate change on the spread of infectious disease is another EEID focus area, generating reports last year that model disease outcomes based on climate variables to guide public health officials. In February, researchers reported field studies showing that environmental temperatures significantly influence whether or not *Wolbachia* bacteria will block the malaria pathogen from developing within carrier mosquitoes. The *Wolbachia* malaria interaction is considered a promising new tool for controlling malaria. Other EEID funded studies are investigating West Nile virus, Lyme disease and hantavirus in the context of climate change and other environmental factors.

There is no doubt that NSF contributes to the Nation's scientific strength and economic growth. The ASM urges Congress to increase funding for NSF in fiscal year 2015 to the highest level possible. The ASM also looks forward to continued future investment of NSF resources in programs related to microbiology since microbes are at the foundation of scientific discovery and other activities that are at the core of the NSF mission.

PREPARED STATEMENT OF THE AMERICAN SOCIETY OF AGRONOMY, THE CROP SCIENCE SOCIETY OF AMERICA, AND THE SOIL SCIENCE SOCIETY OF AMERICA

Dear Chairwoman Senator Mikulski, Ranking Member Senator Shelby and members of the subcommittee: The American Society of Agronomy (ASA), the Crop Science Society of America (CSSA), and the Soil Science Society of America (SSSA) urge the subcommittee to support \$7.5 billion for the National Science Foundation for the fiscal year 2015.

This funding level will put the premier Government-funding agency for scientific research back on track to address to continue valuable projects that promote transformational and multidisciplinary research, provide needed scientific infrastructure, and contribute to preparing the next generation science, technology, engineering, and mathematics workforce.

Specifically, we urge strong support for the following NSF programs:

Within the Biological Sciences Directorate,

—Division of Environmental Biology (DEB), which supports the *Long Term Ecological Research (LTER)* program.

—Division of Integrative Organismal Systems (IOS), which supports the *Plant Genome Research Program* and the *Basic Research to Enable Agricultural Development (BREAD)* program.

Within the Geological Sciences Directorate,

—Division of Earth Sciences (EAR), which supports the *Geobiology & Low-Temperature Geochemistry Program* and *Critical Zone Observatories*.

The American Society of Agronomy (ASA), Crop Science Society of America (CSSA), and Soil Science Society of America (SSSA), represent over 18,000 members in academia, industry, and government, 12,500 Certified Crop Advisers (CCA), and 781 Certified Professional Soil Scientist (CPSS), as the largest coalition of professionals dedicated to the agronomic, crop and soil science disciplines in the United States. We are dedicated to utilizing science to manage our agricultural system and sustainably produce food, fuel, feed, and fiber for a rapidly growing global population in the coming decades.

Agriculture and agriculture-related industries contributed \$742.6 billion to the U.S. gross domestic product (GDP) in 2011, a 4.8-percent share. In 2012, 16.5 million full- and part-time jobs were related to agriculture—about 9.2 percent of total U.S. employment. However, even though increased agricultural productivity, arising from innovation and changes in technology, is the main contributor to economic growth in U.S. agriculture not all people at all times have to access to enough food for an active and healthy life. The global number of food-insecure people is estimated at 707 million in 2013, up 3 million from 2012. By 2023, the number of food-insecure people is projected to increase nearly 23 percent to 868 million, slightly faster than population growth. The Nation's economic prosperity and security depend on our dedication to developing innovative, science-based solutions to meet our growing agricultural needs and managing efficient food systems.

BIOLOGICAL SCIENCES DIRECTORATE

Division Environmental Biology (DEB)

DEB emphasizes research on complex ecological and evolutionary dynamics to improve our ability to understand the reciprocal interactions between living systems and the environment, and inform essential considerations of environmental sustainability.

The *Long Term Ecological Research (LTER)* Network was created by the National Science Foundation (NSF) to conduct research on ecological issues that can last decades and span huge geographical areas. For more than three decades, the Network has generated rigorous, site-based scientific research that has led to important findings on regional and continental scales.

Among the major goals of long-term ecological research is to increase our understanding of a wide array of ecosystems at multiple geographical and time scales, giving society the knowledge and capability to address complex environmental challenges. Key research findings by LTER scientists provide valuable information for Federal agencies, land managers, and decision makers who want to develop responsible policies to deal with a rapidly changing world.

Integrative Organismal Systems (IOS)

In order to meet increasing demands and develop more robust crops, additional fundamental understanding regarding the basic biology of these crops is needed.

IOS maintains its commitment to support fundamental plant genome research through the *Plant Genome Research Program (PGRP)*.

PGRP supports genome-scale research to accelerate basic discoveries of relevance to basic plant biology as well as downstream applications of potential societal benefit such as crop improvement, development of new sources of bio-based energy, development of sources of novel bio-based materials, and plant adaptation to global climate change.

In addition, the Developing Country Collaborations in Plant Genome Research program links U.S. researchers with partners from developing countries to solve problems of mutual interest in agriculture and energy and the environment.

The PGRP's *Basic Research to Enable Agricultural Development (BREAD)* Program supports basic research on early-concept approaches and technologies for science-based solutions to problems of agriculture in developing countries.

GEOLOGICAL SCIENCES DIRECTORATE

Earth Sciences (EAR)

The Earth Sciences division supports the Surface Earth Processes section, which researches geomorphology and land use, hydrologic science, geobiology, geochemistry (particularly the Geobiology and Low-Temperature Geochemistry Program), and sedimentary geology and paleobiology—all crucial to the areas of agronomy, soil, and crops.

In addition, EAR supports EarthScope which focuses on studying the structure and tectonics of the North American continent and an Instrumentation and Facilities program that supports community-based, shared-use facilities, as well as an education program to attract and support students and young investigators to the field of Earth science.

ASA, CSSA, and SSSA also support strong funding for the Critical Zone Observatories that operate at the watershed scale and significantly advance our understanding of the integration and coupling of Earth surface processes as mediated by the presence and flux of fresh water.

We must close the innovation deficit if the United States is to remain the world's innovation leader in agriculture. China continues to exhibit the world's most dramatic R&D growth at 20.7 percent annually, compared to the United States at 4.4 percent growth over the same time period. By 2009, agriculture R&D fell to a historically low 0.035 percent share of the United States economy, a level far below the total U.S. R&D spending and that which is necessary to meet the critical challenges facing U.S. agriculture in the 21st century.

Support for NSF is essential to maintain the capacity of the United States to conduct both basic and applied agricultural research, to improve crop and livestock quality, and to deliver safe and nutritious food products while protecting and enhancing the Nation's environment and natural resource base.

Thank you for your consideration. For additional information or to learn more about the ASA, CSSA, and SSSA, please visit www.agronomy.org, www.crops.org, or www.soils.org.

PREPARED STATEMENT OF THE AMERICAN GEOPHYSICAL UNION—JOINT RESPONSE TO
NOAA BUDGET BILL

Senator BARBARA MIKULSKI,
Chair, Subcommittee on Commerce, Justice, Science, and Related Agencies,
U.S. Senate Committee on Appropriations,
142 Dirksen Senate Office Building,
Washington, DC 20510.

Senator RICHARD SHELBY,
Ranking Member, Subcommittee on Commerce, Justice, Science, and Related Agencies,
U.S. Senate Committee on Appropriations,
125 Hart Senate Office Building,
Washington, DC 20510.

Re: Support funding for the National Oceanic and Atmospheric Administration at or above the President's fiscal year 2015 request of \$5.5 billion.

Dear Chairwoman Mikulski and Ranking Member Shelby: We write on behalf of millions of Americans who are strongly supportive of robust funding and smart investment in NOAA's ocean, coastal, and fisheries programs. We strongly support funding for the National Oceanic and Atmospheric Administration at or above the President's Request of \$5.5 billion in fiscal year 2015. In addition, we support bal-

anced investments across NOAA's dual atmospheric and oceanic missions—Americans shouldn't have to choose between weather satellites and ocean and coastal resources that support and protect our coastal economies and communities. We simply need both.

NOAA's mission to protect, restore and manage our ocean, coasts and Great Lakes is vitally important not only to sustain these resources but also to sustain our coastal economies. The *National Ocean Economics Program* has estimated that the U.S. ocean and coastal economy contributes more than \$282 billion annually to the Nation's GDP through fisheries and seafood production, tourism, recreation, transportation, and construction. Additionally, over 2.8 million jobs in the U.S. depend on the ocean and coasts. Adequate funding for NOAA is critically important to support a healthy and resilient ocean that can continue to strengthen our coastal economies and communities.

Resilience has emerged as the critical goal that unites all of NOAA's ocean and coastal programs. Man-made and natural ocean and coastal disasters over the last several years, from Department of Commerce declared fisheries disasters to the BP *Deepwater Horizon* oil disaster, remind us of the connection between the health of our ocean and coasts and the well-being of our coastal communities and economy. Resilience means more than just storm-ready; truly resilient communities are prepared to face changing ocean conditions, from acidification to sea level rise, changing economic conditions, from recession to emerging ocean uses, as well as major catastrophes, from Superstorm Sandy to marine debris clogging waterways. Investing in NOAA's programs will ensure we can respond to and mitigate the impacts and costs of future disasters by creating healthy and more resilient coastal ecosystems and communities.

For example:

—Coastal wetland buffer zones in the U.S. are estimated to provide \$23.2 billion per year in storm protection and a single acre of wetland can store 1 to 1.5 million gallons of flood water or storm surge.

—Healthy fisheries are needed to support an industry of more than 60,000 jobs and \$6.6 billion in GDP. Information provided by core data collection, catch monitoring and stock assessment programs within the NMFS is critical to ending overfishing.

—Ocean and coastal observations and monitoring supports severe storm tracking and weather forecasting systems, which greatly reduce the cost of natural disaster preparation, evacuation, and mitigation.

The President's Request seeks modest increases in ocean, coastal, and fishery programs, and we support these increases as an important step towards robust funding for NOAA's ocean mission. In fiscal year 2014, NOAA has finally been put back on a path towards robust and sustainable funding, the first step in bouncing back from significant cuts to critical programs from fiscal year 2011 to fiscal year 2013. Underfunding NOAA simply is not sustainable, we urge Congress to recognize the importance of our ocean, coasts, and Great Lakes by fully funding NOAA programs at or above \$5.5 billion in fiscal year 2015.

Signed,

ORGANIZATIONS & BUSINESSES

Advanced Aqua Dynamics, Inc.	Hawaii Institute of Marine Biology
Alliance for the Great Lakes	International Federation of Fly Fishers
American Geophysical Union	IOOS Association
American Rivers	Long Live the Kings
Center for Biological Diversity	Management Association for Private
Center for Coastal Studies	Photogrammetric Surveyors (MAPPS)
Chesapeake Communities	Marine Conservation Institute
Citizens Campaign for the Environment	National Audubon Society
Coastal Conservation League	National Estuarine Research Reserve
Coastal Research & Education Society of	Association
Long Island	National Marine Sanctuary Foundation
Coastal States Organization	National Society of Professional
Conservation Law Foundation	Surveyors (NSPS)
Consortium for Ocean Leadership	Natural Resources Defense Council
Earthjustice	Nature Abounds
Environmental Defense Fund	The Nature Conservancy
Green/Duwamish & Central Puget	Ocean Conservancy
Sound Watershed (Watershed	Ocean Conservation Research
Resource Inventory Area 9) Ecosystem	The Ocean Project
Forum	Oceana

Operation Splash	Save Our Shores
Project AWARE	Save Our Wild Salmon Coalition
Puget Sound Partnership	Scripps Institution of Oceanography
Puget Sound Salmon Recovery Council	Sierra Club
Reef Relief	Southeast Coastal Ocean Observing
Restore America's Estuaries	Regional Association (SECOORA)
Rhode Island Marine Trades Association	Surfrider Foundation

INDIVIDUALS

Carleton Ray, Research Professor, Dept. Environmental Sciences, University of Virginia	Jonathan Milne, M.Sc, Atlantic and Midwest Region Program Manager, LightHawk, Sidney, Maine
Dawn J. Wright, Chief Scientist, Esri, Redlands, California	Leesa Cobb, Executive Director, Port Orford Ocean Resource Team, Port Orford, Oregon
Dr. Alina M. Szmant, Professor of Marine Biology, Center for Marine Science, University of North Carolina, Wilmington	Michael Krivor, Maritime Project Manager, SEARCH—SEARCH2O, Pensacola, Florida
Dr. Rozalind Jester, Marine Science Faculty, Edison State College, Fort Myers, Florida	Mitchell A. Roffer, Ph.D., President, Roffer's Ocean Fishing Forecasting Service, Inc., West Melbourne, Florida
Elizabeth Rhodes, Professor of Hispanic Studies, Boston College	Sarah Towne, NOAA Fisheries West Coast Region and University of Washington Masters Candidate (School of Marine and Environmental Affairs)
Harald Duell, Larchmont, New York	Will McClintock, Ph.D., SeaSketch Director, Marine Science Institute, University of California Santa Barbara
Jennifer I. Barrett, Owner, Island Connect Consulting, LLC, Founder, Hawaii Nature Hui, Honolulu, Hawaii	Y. Peter Sheng, Ph.D., Professor and Director, Coastal and Oceanographic Engineering Program, University of Florida
Jerry McCormick-Ray, Senior Scientist, Dept. Environmental Sciences, University of Virginia	
John C. Ogden, Professor Emeritus, Integrative Biology, University of South Florida	

PREPARED STATEMENT OF THE ANIMAL WELFARE INSTITUTE

Chairman Mikulski, Ranking Member Shelby, and distinguished members of the subcommittee, thank you for accepting our testimony in support of fiscal year 2015 funding for activities under the Office of Justice Programs (OJP) and the office of Community Oriented Policing Services (COPS) of the U.S. Department of Justice (DOJ). We ask that no further cuts be made in appropriations for these programs and that, to the extent possible, funding be restored so that they are better able to serve their missions.

As noted on its Web site: "The Office of Justice Programs (OJP) provides innovative leadership to Federal, State, local, and tribal justice systems, by disseminating state-of-the art knowledge and practices across America, and providing grants for the implementation of these crime fighting strategies. . . . OJP works in partnership with the justice community to identify the most pressing crime-related challenges confronting the justice system and to provide information, training, coordination, and innovative strategies and approaches for addressing these challenges."

Elsewhere, the COPS website defines community policing as "a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime." There is an emphasis on training and technical assistance; creative, innovative, and experimental community policing strategies; and best practices, among others efforts.

Nothing is more creative, innovative, or proactive, nor more open to dynamic partnerships, than addressing community safety through training, technical assistance, partnerships, and development of problem-solving strategies designed to improve the prevention, investigation, and prosecution of animal cruelty. Unfortunately, reduced funding has impaired the ability of these programs to meet the demand for training and assistance in this area.

Animal cruelty is both a crime (with all 50 States now recognizing certain acts as felonies) and a manifestation of social disorder. The connection between animal abuse and other forms of violence has been firmly established through both experi-

ence and science. “Animal abusers are five times more likely to commit crimes against people, four times more likely to commit property crimes, and three times more likely to have a record for drug or disorderly conduct offenses.”¹

One “gold standard” study² has identified animal abuse as one of four significant predictors for who is likely to become a batterer. Criminals and troubled youth have high rates of animal cruelty during their childhoods, perpetrators were often victims of child abuse themselves,³ and animal abusers often move on to other crimes.

Another research project, which is being overseen by an FBI special agent, involves “analyzing the criminal histories of offenders who were arrested for active animal cruelty, in order to further examine the potential link between animal cruelty and violence against persons.” According to an initial analysis published in a dissertation (Leavitt, 2011), the majority of the 66 offenders examined so far “had prior arrests for other crimes,” including interpersonal violence (59 percent), assault (39 percent), and assault of a spouse or intimate partner (38 percent); 17 percent had a history of sexual offenses. The publication of final results is expected by the end of the year.

All of this experience combined with the growing body of research makes a compelling case that addressing animal cruelty is a significant tool for enhancing public safety. For example, the Los Angeles Police Department’s Animal Cruelty Task Force attributes an increase in citizen-provided videos documenting animal cruelty to “a deep concern for public safety.” A press release (January 15, 2014) states that “[w]itnesses come to the realization that anyone that would commit such horrific acts of violence on defenseless animals could also do the same to humans.”

Nowhere is this clearer than in the well-documented relationship between animal cruelty and domestic violence, child abuse, and elder abuse. Up to 71 percent of victims entering domestic violence shelters have reported that their abusers threatened, injured, or killed the family pet; batterers do this to control, intimidate, and retaliate against their victims; they may be trying to coerce them into allowing sexual abuse or to force them into silence about abuse.⁴ This poses a significant public safety and public health problem. In one study, 48 percent of women responding reported they had delayed leaving an abusive situation out of fear for their pets. (Faver and Strand, 2003) Twenty-six States (this tally includes the District of Columbia and Puerto Rico) now specifically allow the inclusion of companion animals in domestic violence restraining orders.

Another connection that is all too common, and all too dangerous, exists among animal fighting, gangs, drugs, illegal guns, and other offenses. The Animal Legal and Historical Center at the Michigan State University College of Law describes dogfighting in these stark terms: “The notion that dogfighting is simply an animal welfare issue is clearly erroneous. Until the past decade, few law enforcement officials or government agencies understood the scope or gravity of dogfighting. As these departments have become more educated about the epidemic of dogfighting and its nexus with gang activity, drug distribution rings, and gambling networks, many have implemented well designed, sophisticated task forces. The magnitude of criminal activity concurrently taking place at the average dogfight is of such a scope as to warrant the involvement of a wide range of agencies, including local, regional, and Federal law enforcement agencies and their specialized divisions such as organized crime units, SWAT teams, and vice squads, as well as animal control agencies and child protective services.”

Animal fighting is barbaric and is a violent crime in the truest sense of the term. It causes immense suffering to countless numbers of innocent animals and its presence threatens the safety of the entire community. It is illegal under both State and Federal law, so it well serves the entire community for law enforcement to have the most powerful tools possible to eradicate it. In fact, as part of the new farm bill, Congress has added to these tools by closing a significant loophole in the law by making knowingly attending an animal fight punishable by fines and jail time and also making it a separate offense, with higher penalties, to knowingly bring a minor to such an event. This is a significant new tool. Animal fighting is fueled not just

¹Thompson, Daria, “The Link Between Animal Abuse and Other Violent Behavior,” in *Deputy and Court Officer*, 2013 Number 3, p.4.

²Walton-Moss, Benita, Jacquelyn Campbell, et al, “Risk Factors for Intimate partner Violence and Associated Injury Among Urban Women,” *Journal of Community Health*, vol. 30, No. 5, October 2005.

³“Woman’s Best Friend: Pet Abuse and the Role of Companion Animals in the Lives of Battered Women,” by Flynn (2000), as cited at www.ncadv.org.

⁴The study “I’ll only help you if you have two legs,” or Why human services professional should pay attention to cases involving cruelty to animals, by Loar (1999), as cited on the website of the National Coalition Against Domestic Violence (www.ncadv.org).

by those who train and fight the animals and finance the fights, but also by spectators. Spectators are not innocent bystanders; they are active participants in and enablers of these criminal enterprises—and they also provide “cover” during raids by allowing the organizers, trainers, etc., to “blend into the crowd” to escape arrest.

There is a need to respond proactively to animal cruelty at the very earliest signs and earliest ages, before it becomes a larger public safety issue. “A study conducted over a 10 year period found that children between the ages of 6–12 years old who were described as being cruel to animals were more than twice as likely as other children in the study to be reported to juvenile authorities for a violent offense.”⁵

The U.S. Department of Justice should be commended for taking note of these developments in what is commonly called “the link,” and then taking steps to respond. OJP showed great vision in recognizing that by identifying precursor crimes, such as animal cruelty and animal fighting, and ensuring proper adjudication of such cases, our criminal justice system can reduce the incidence of family and community violence and change the path of potential future violent offenders.

DOJ has given weight to the need to address animal cruelty crimes as part of an overall strategy for curbing community violence by funding programs that deal with this crime and by weaving the recognition of that connection into its own policies and operations. For instance, in 2009, what would become the Animal Cruelty Working Group had its first meeting. Then-Assistant Attorney General Laurie Robinson was aware of, and wanted to bring staff together to discuss, the link between animal abuse and interpersonal violence (IPV). She “wanted to make sure [they] were using the evidence on animal cruelty to inform how OJP programs were designed and implemented.”

It is especially noteworthy that DOJ, et al, included witnessing animal cruelty on their *Polyvictimization/Trauma Symptom Checklist*, which was developed to “allow lawyers and other advocates to focus on important information about (juvenile) clients’ past victimization history and help advocates better identify and advocate for appropriate placements, disposition plans, trial strategies, services, and treatment.”⁶ This recognizes the impact that witnessing or being forced to participate in animal abuse has on children and its relationship to later involvement with the criminal justice system. In fact, some States have even enacted or are considering provisions that enhance the penalty for animal cruelty when it is committed in front of a child.

In 2013, DOJ hosted a “listening session” on the topic of “the intersection between animal cruelty and public safety” among its own staff and judges, prosecutors, forensic scientists, and representatives from law enforcement, animal protection, domestic violence, child welfare, and veterinary organizations. At that meeting, which Associate Attorney-General Tony West attended, then-Acting Assistant Attorney-General Mary Lou Leary said, “The topic of animal cruelty may seem unimportant in the face of events like the Boston bombing, school shootings, and other recent tragedies, but we know there’s a history of animal cruelty in the backgrounds of many perpetrators of violent acts. Understanding this link between animal cruelty and interpersonal violence is critical to the Department.”

That the Department takes this seriously is evident. However, cuts in the OJP and COPS programs are hampering their ability to be the catalyst for innovative responses to animal cruelty and “the link” as envisioned in their missions and in the Department’s commitment to this issue. Prosecutors and other members of the law enforcement community are eager for new thinking and better tools for dealing with animal cruelty crimes in their communities. Funding is needed for training, technical assistance, communication and coordination, and dissemination of best practices.

We hope that Congress will take this important public safety need into consideration when determining funding for programs under BJA and COPS. Enabling DOJ to support initiatives addressing animal cruelty and its relationship to other crimes sends a very strong message to prosecutors, law enforcement, and, most importantly, the community at large, that crimes involving animals are to be taken seriously and pursued vigorously.

⁵ Thompson, *Ibid.*, p.4.

⁶ The Checklist is part of a tool (The Polyvictimization and Trauma Identification Checklist and Resource) developed by The SafeStart Center (a project of the U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Programs), the American Bar Association’s Center on Children and the Law, and Child & Family Policy Associates. http://www.safestartcenter.org/pdf/Resource-Guide_Polyvictim.pdf.

PREPARED STATEMENT OF ASSOCIATED UNIVERSITIES, INCORPORATED

This written testimony is submitted on behalf of Associated Universities, Incorporated (AUI) to ask you to continue your support of the National Science Foundation (NSF) in fiscal year 2015 by providing NSF with \$7.5 billion. In particular, we urge you to provide strong support for the NSF Division of Astronomical Sciences and the National Radio Astronomy Observatory (NRAO).

My name is Ethan Schreier, President of AUI, a non-profit corporation that operates the National Radio Astronomy Observatory under a Cooperative Agreement with the National Science Foundation. NRAO is a federally Funded Research and Development Center (FFRDC) that enables forefront research into the Universe at radio wavelengths. Radio astronomy has opened new vistas into the Universe, uncovering the birthplaces of stars and planets, super-massive black holes, gravitational waves and the remnant heat of the Big Bang.

I would like to emphasize how much AUI appreciates your subcommittee's continued leadership on and recognition of the critical role of the NSF and its support for science and engineering in enabling a strong U.S. economy, workforce, and society.

Today, I submit this testimony to ask you to continue your support of NSF in fiscal year 2015 and beyond.

NSF funds basic research that spurs innovation and discovery in all fields of science and engineering. As a part of this work, NSF provides unique Federal support for ground-based astronomy that is answering fundamental questions about our Universe. These questions include how the Universe began, how cosmic structures form and evolve, whether habitable worlds exist around other stars, and what organic materials exist in space as the building blocks of life.

I join with the research and higher education community and request that you provide NSF with \$7.5 billion overall. I ask that you allocate an additional \$245 million above the budget request to Research and Related Activities (RRA), and within RRA, we encourage you to provide a proportional increase to the Division of Astronomical Sciences to \$249 million.

NSF provides critical funding to support astronomy facilities and the researchers in the United States that use them to answer these questions. In particular, NRAO currently operates four world-leading telescopes funded by NSF for use by the scientific community: the Jansky Very Large Array (VLA) in New Mexico, the most productive, ground-based telescope in history; the Robert C. Byrd Green Bank Telescope (GBT) in West Virginia, the world's largest, fully-steerable telescope; the Very Long Baseline Array (VLBA), the world's largest scientific instrument with 10 dishes spanning North America that enable the most precise angular measurements of any telescope; and the new international Atacama Large Millimeter/submillimeter Array (ALMA), the largest ground-based astronomy project ever conceived and built, for which AUI is the North American lead, overseeing NRAO's construction and operations for the North American science community. Each of these telescopes fills a unique and essential science role, and each is the best in the world in its category. NRAO's Headquarters, and the focus of its radio technology development, is in Virginia.

Certain physical phenomena are only observable by their radio signals. Just as visible light from space carries information about stars and the astronomical objects that are illuminated by them, radio waves are emitted by important celestial phenomena that are often invisible to our eyes, even with the best optical telescopes. For example, stars form from collapsing cold clouds of molecules and dust that are too cold and obscured to be observed by any other technique. The earliest stages of star formation, one of the most basic processes of astrophysics, are invisible even to the Hubble Space Telescope or the future James Webb Space Telescope and can only be studied using the techniques of radio astronomy. Radio astronomy also offers cost-effective methods to complement other techniques. For example, radio astronomers are using accurate timing of pulsars—fast-spinning, highly dense, collapsed (*neutron*) stars—to search for the gravitational waves predicted by Einstein's Theory of General Relativity. This technique, which uses NRAO's Green Bank Telescope among other facilities, is a complement to the Laser Interferometer Gravitational Wave Observatory (LIGO) and other gravitational wave detectors.

NRAO facilities provide transformational and unique scientific capabilities that enable the astronomy community to answer many fundamental questions about the Universe including those highlighted by the recent National Academy's Decadal Survey, *New Worlds New Horizons*, studying galaxies as they form and grow since the earliest times of the Universe, directly imaging planets in formation around nearby stars, and directly detecting gravitational waves from the merging of massive black holes.

We ask that you continue the fiscal year 2014 level for NRAO operations to support ongoing activities at U.S. NRAO facilities. Support for these facilities will sustain groundbreaking research capabilities as well as our very active science, technology, engineering, and mathematics (STEM) education and public outreach programs. We additionally hope you will support the President's budget request for the ALMA project, now nearing completion of construction, at \$40.17 million for fiscal year 2015. This represents a \$5.9 million increase to the AST budget as the ALMA project ramps up to full operations.

AUI also supports the important NSF initiative to fund midscale research infrastructure at \$29 million, an increase of \$8.25 million above the fiscal year 2014 enacted level. These funds would support scientific instrumentation that facilitate student training, bridging the gap between small laboratory-scale instrumentation and large multi-user facilities. This midscale program request would implement a priority identified by the National Academy's most recent decadal survey of astronomy and astrophysics.

We would like to conclude by thanking you again for your ongoing support of NSF that enables the research and education communities it supports, including thousands of astronomers, to undertake activities that contribute to the health, security, and economic strength of the U.S. NSF needs sustained annual funding to maintain our competitive edge in science and technology, and therefore we respectfully ask that you continue robust support of these critical programs in fiscal year 2015. I appreciate the opportunity to provide testimony to the Committee on behalf of AUI. I am happy to provide any additional information or assistance you may ask of us during the fiscal year 2015 appropriations process.

PREPARED STATEMENT OF THE ASSOCIATION OF PUBLIC AND LAND-GRANT
UNIVERSITIES' (APLU) BOARD ON OCEANS, ATMOSPHERE, AND CLIMATE (BOAC)

On behalf of the Association of Public and Land-grant Universities' Board on Oceans, Atmosphere, and Climate (BOAC), we thank you for the opportunity to provide recommendations for the proposed fiscal year 2015 budgets for the National Oceanic and Atmospheric Administration (NOAA), the National Aeronautic and Space Administration (NASA), and the National Science Foundation (NSF). BOAC represents over 300 scientists and administrators at APLU's 235 member universities and systems. *We support a budget of \$5.6 billion for NOAA, \$80 million for the NOAA's National Sea Grant College Program, \$5.25 billion for NASA's Science Directorate and \$7.5 billion for NSF.*

According to the National Climatic Data Center (NCDC), between 1980 and 2013, there were 151 weather/climate disasters that each exceeded \$1 billion in damages. Combined they totaled \$1 trillion in losses. The Federal Government spent nearly \$140 billion on disasters in 2012 alone. Additionally, the role of the Federal Government in covering many of these losses has grown tremendously over the last few decades. Erwann Michel-Kerwann, chairman of the OECD's Board on Financial Management of Catastrophes, noted that in 1989, Federal relief covered only 23 percent of total damage whereas Federal relief covered 69 percent of Hurricane Ike in 2008 and 75 percent of Hurricane Sandy in 2012.

To decrease future Federal expenditures and to make the Nation more prepared for natural disasters, Federal agencies are working with communities across the Nation to enhance their resilience. Community resilience is a measure of the ability of a community to prepare for, respond to, and fully bounce back from a variety of crises. Through research, Federal science agencies can play a valuable role in helping communities strengthen their resilience.

In 2005, the National Science and Technology Council's Subcommittee on Disaster Reduction provided a framework for sustained Federal investment in science and technology related to disaster reduction, regardless of the type of disaster. They call for:

- Providing hazard and disaster information where and when it is needed.
- Understanding the natural processes that produce hazards.
- Developing hazard mitigation strategies and technologies.
- Recognizing and reduce vulnerability of interdependent critical infrastructure.
- Assessing disaster resilience using standard methods.
- Promoting risk-wise behavior.

All of these actions require research, whether it be for the basics of understanding how and when natural processes become hazardous or for modeling potential flooding or for the social science to enhance communications, trust and understanding within communities to promote "risk-wise" behavior.

Below we comment on the needs of each agency and their collaborating science communities in making our Nation more resilient:

NOAA

NOAA conducts research into natural processes and provides information on when natural processes may be hazardous. To create resiliency for the Nation, researchers and forecasters need increased and sustained support of satellite and in situ environmental observing systems. As reported in several prior and recent National Research Council studies, (*Observing Weather and Climate from the Ground Up, a Nationwide Network of Networks*, NRC, 2009), the needs are particularly acute for urbanized areas as well as mountain, ocean and coastal regions.

While we recommend sustained support for NOAA's satellite programs, we point out that this support *should not be at the expense of NOAA's extramural funding* of research, education and outreach. Extramural funding is cost effective. Its highly competitive nature ensures up-to-date qualifications and cutting-edge approaches without the continuing costs of developing, maintaining and updating these skills in house. It provides essential training in research skills to provide the next generation of researchers. In 2004 the NOAA Science Advisory Board's Research Review Team report concluded:

“. . . Extramural research is critical to accomplishing NOAA's mission. NOAA benefits from extramural research in many ways, including: access to world class expertise not found in NOAA laboratories; connectivity with planning and conduct of global science; means to leverage external funding sources; facilitate multi-institution cooperation; access to vast and unique research facilities; and access to graduate and undergraduate students. Academic scientists also benefit from working with NOAA, in part by learning to make their research more directly relevant to management and policy. It is an important two-way street . . . *NOAA cannot accomplish its goals without the extramural community, specifically the universities and institutions that represent the broad range of expertise and resources across the physical, biological, and social sciences (emphasis added)*. Moreover, there is the important issue of maintaining a scientific and technologically competent workforce in NOAA and the workforce is another “product” of the extramural research community . . . Also it is important that during difficult budget periods that NOAA not disproportionately target the extramural research for budget cuts.”

Sustained observations are vitally important to ensure coastal communities have the information necessary to increase overall resiliency. NOAA's Sustained Ocean Observations and Monitoring program funds global observing programs, including globally deployed floats, drifters, and fixed moorings to provide information essential for accurate forecasting of hurricanes, typhoons, atmospheric rivers and associated flooding, heat waves, and wildfires. Data and analyses of ocean and atmospheric conditions are increasingly used for drought early warning systems, enhanced tsunami warning systems, and storm surge monitoring. Ocean observations are also imperative for calibrating and validating satellite observations. Maintaining baseline ocean observations in support of weather and regional climate predictions, fisheries management and ecosystem studies, tide and current monitoring, and sea level change is essential. Maintaining continuity of long-term data sets is essential to ensure communities are able to respond and adapt to today's changing world.

NOAA's support of environmental research and education via programs such as the Oceanic and Atmospheric Research's Sea Grant and the Office of Ocean Exploration and Research programs are also critical to university research, education and outreach. Similarly, NOAA's role in understanding the oceans and coastal areas and oceanic resources through the National Centers for Coastal Ocean Science support and help maintain sustainable coastal economies.

In particular, we would like to point out the important role of the National Sea Grant College Program in increasing the resilience of the Nation's coastal communities. Sea Grant personnel excel at working with local communities to address their specific needs and prepare them for potential hazards. For example, Virginia Sea Grant provided training to emergency managers and weather service meteorologists in Rstofs, a flood forecasting system used extensively by the National Weather Service and emergency managers. In 2011, that training paid off when decision-makers, using this training, made a timely evacuation call of 200,000 residents during Hurricane Irene. Similarly, Virginia Sea Grant sponsored the development and dissemination of real-time tide monitoring technology (TideWatch). With information from TideWatch, marinas were able to properly prepare for the drastic tidal changes produced by storms Ida (2009) and Irene (2011) and avoid the damages they accrued during similar, earlier storm events. For the reasons listed above, we support funding of the National Sea Grant College Program at \$80 million.

Another critical pillar of NOAA's extramural research enterprise in atmospheric and ocean science, climate, weather, and marine ecosystems are its 16 Cooperative Institutes, involving 42 leading research universities and non-profit independent institutions located in 23 States and the District of Columbia. Established through open solicitations, competitive Cooperative Institute (CI) partnerships provide NOAA direct access to key innovations at the Nation's primary institutions of science, social-learning, and research development. Recent Cooperative Institute research has focused on forecasting energy demand scenarios, seasonal wildfires, and large storm events; assessing local impacts of projected sea-level rise; improving seasonal precipitation and drought predictions; and understanding atmospheric rivers and other causes of extreme flooding. This research is translated into information used by private businesses and public sector managers at all levels of government. CI program are predominantly funded by the Office of Oceanic and Atmospheric Research (OAR), through its "Laboratories and Cooperative Institutes" line, but are also administered and/or funded by other NOAA line offices including the National Marine Fisheries Service (NMFS) and the NOAA's Satellite and Information Service (NESDIS).

In addition, OAR's Regional Climate Data and Information line funds the Regional Integrated Sciences and Assessments (RISA) program, the National Integrated Drought Information System (NIDIS), and associated programs. The RISA program supports research teams in over 30 States—each affiliated with one or many universities—as they work with public and private user communities to build the Nation's capacity to prepare for and adapt to environmental variability and change. NIDIS provides dynamic and easily accessible drought information for the Nation.

NASA

Like NOAA, NASA is critical to community resilience, both for developing an understanding of the Earth and how it functions as well as collection of the data scientists use to help aid decision-makers.

In 2007, the National Academies issued the report, *"Earth and Science Applications from Space: National Imperatives for the Next Decade and Beyond."* The report found that between 2000 and 2009 funding for Earth Sciences (ES) had fallen substantially. ES research is absolutely critical to understanding climate change, such as the decline of Earth's ice sheets and the health of the global oceans. Past investments in NASA's science mission have funded university research that has resulted in the development of new instruments and technologies and in valuable advances in weather forecasting, climate projections and understanding of Earth ecosystems.

NASA is instrumental in deploying satellites used by NOAA and in cooperating with other countries. Furthermore, without the tools developed at NASA, oceanic, atmospheric, hydrologic and Earth-system scientists and the Nation would have only a fragmentary picture of the interconnected functioning of the planet's oceans, atmosphere and land. NASA plays a role in technology transfer from NOAA by testing new sensors. NASA is currently developing a sensor that will for the first time give scientists and resource planners a global picture of the world's terrestrial water supplies. Currently many lakes and rivers are not monitored and there is no centralized location for water resource information. The NASA data archive is an irreplaceable collection of environmental information that researchers depend upon. Furthermore, through its support for young scientists and graduate students, the NASA science mission supports innovation.

Finally, we support funding NASA to develop and implement a scatterometer mission with fast community access to those data, capability to distinguish between wind and rain and a higher orbit for coverage of Alaskan waters. The scatterometer has been a critical component of hurricane prediction.

NSF

Understanding natural processes and how or when they become hazardous is critical to forecasting those hazards. This requires basic research, which is why BOAC supports funding of NSF. NSF supplies almost two-thirds of all Federal funding for university-based, fundamental research in the geosciences. GEO-supported research increases our ability to understand, forecast, respond to and prepare for environmental events and changes. NSF's Water Sustainability and Climate program addresses the pressing challenge of providing adequate water quantity and quality in light of both burgeoning human needs and increasing climate variability and change. Through facilities such as the Oceans Observatory Initiative, the Integrated Ocean Drilling Program, and NCAR-Wyoming supercomputer, NSF provides the academic community with advanced capabilities that it would not be able to afford

if conducted through individual institutions. It does so without growing the needs for increased personnel, training and retooling in house at Federal laboratories and while training the next generation.

SUMMARY

Together, NOAA, NASA, and NSF provide critical Earth observations and research funding for scientists, engineers and mathematicians working to increase understanding of natural phenomena of economic and human significance. BOAC thanks the Committee for its continued support of these critical agencies.

PREPARED STATEMENT OF THE ASSOCIATION OF ZOOS AND AQUARIUMS

NOAA

Thank you Chairwoman Mikulski and Ranking Member Shelby for allowing me to submit testimony on behalf of the Nation's 213 U.S. accredited zoos and aquariums. Specifically, I want to express my support for the inclusion of at least \$3.981 million for the John H. Prescott Marine Mammal Rescue Assistance Grant Program, \$2,500,000 for the NOAA Ocean Education Grants Program, and \$12,000,000 for the Bay, Watershed, Education and Training Program in the fiscal year 2015 Commerce, Justice, Science, and Related Agencies appropriations bill. Additionally, I urge you to reject any proposal that eliminate valuable ocean education programs as part of a plan to restructure Federal Science, Technology, Engineering, and Math (STEM) programs.

Founded in 1924, the Association of Zoos and Aquariums (AZA) is a nonprofit 501c(3) organization dedicated to the advancement of zoos and aquariums in the areas of conservation, education, science, and recreation. AZA-accredited zoos and aquariums annually see more than 182 million visitors, collectively generate more than \$21 billion in annual economic activity, and support more than 204,000 jobs across the country. Over the last 5 years, AZA-accredited institutions supported more than 4,000 field conservation and research projects with \$160,000,000 annually in more than 100 countries. In the last 10 years, accredited zoos and aquariums formally trained more than 400,000 teachers, supporting science curricula with effective teaching materials and hands-on opportunities. School field trips annually connect more than 12,000,000 students with the natural world.

During the past 20 years AZA-accredited zoos and aquariums have rescued and rehabilitated more than 1,800 marine animals including stranded dolphins, whales, sea lions, seals, sea otters, sea turtles, and manatees. More than 1,750 (97 percent) of these animals have been successfully released back into their natural habitat. While the Nations' accredited zoos and aquariums support wildlife rehabilitation through their ongoing animal rescue programs, these institutions are sometimes involved in addressing natural and manmade disasters such as the 2010 Deepwater Horizon Gulf oil spill. For example, following the oil spill, accredited zoos and aquariums around the country offered assistance by pledging the services of 200 animal care professionals and donating supplies, vehicles, and other resources to assist in the wildlife rescue efforts.

The John H. Prescott Marine Mammal Rescue Assistance Grant Program provides grants or cooperative agreements to eligible stranding network participants for the recovery and treatment (i.e., rehabilitation) of stranded marine mammals; data collection from living or dead stranded marine mammals; and, facility upgrades, operation costs, and staffing needs directly related to the recovery and treatment of stranded marine mammals and collection of data from living or dead stranded marine mammals. Eligible applicants are currently active, authorized participants, including AZA-accredited zoos and aquariums, or researchers in the National Marine Mammal Stranding Network.

Without the Prescott grant program, NOAA would have to rely on private organizations as it coordinates the response to marine mammals in distress; determines disease, injury and potential cause(s) of death; and supports emergency response for marine mammals during oil spills, outbreaks of diseases, and unusual mortality events. Network partners may not have the funds or the ability to respond to some stranding events, leaving animals at risk for prolonged exposure and likely death. Without funding for this program the critical ability to monitor marine mammal health trends, collect scientific data, and perform analysis would also be diminished. Information about the causes of marine mammal strandings is useful to the public because marine mammals can serve as an indicator of ocean health, giving insight into larger environmental issues that also have implications for human health and welfare.

At the same time that AZA-accredited zoos and aquariums are working with Federal partners to conserve ocean wildlife, they also are providing essential learning opportunities, particularly about science, for schoolchildren in formal and informal settings. Increasing access to formal and informal science education opportunities has never been more important. Studies have shown that American schoolchildren are lagging behind their international peers in certain subjects including science and math.

The NOAA Ocean Education Grants Program and Bay, Watershed, Education and Training Program bring students closer to science by providing them with the opportunity to learn firsthand about our world's marine resources. Through these grant programs, aquariums work closely with Federal, State, and local partners on projects with long-lasting benefits not only for the students but their communities as well. For example, previous projects funded by NOAA Ocean Education Grants at AZA aquariums have focused on establishing a regional network of summer camp programs grounded in ocean science, enhancing teen conservation leadership programs, and conserving and managing coastal and marine resources to meet our Nation's economic, social and environmental needs. As schools face increased budgetary pressures, these types of education programs at aquariums will become even more important in ensuring that American schoolchildren receive the necessary foundation in science education that they will need to be competitive in the 21st century global economy.

AZA-accredited zoos and aquariums are essential partners at the Federal, State, and local levels to improve education for schoolchildren and ensure that current and future generations will be good stewards of the world's oceans. Therefore, I urge you to include at least \$3.981 million for the John H. Prescott Marine Mammal Rescue Assistance Grant Program, \$2,500,000 for the NOAA Ocean Education Grants Program, and \$12,000,000 for the Bay, Watershed, Education and Training Program in the fiscal year 2015 Commerce, Justice, Science, and Related Agencies appropriations bill.

Thank you.

PREPARED STATEMENT OF NATHAN M. BACHELER, FISHERIES BIOLOGIST, NOAA/
NATIONAL MARINE FISHERIES SERVICE

Dear Members of the Senate Subcommittee on Commerce, Justice and Science, and Related Agencies: Acting as a private citizen on my own time, I would like to submit testimony for the record to strongly urge the subcommittee to reject the proposal in the President's fiscal year 2015 budget to close the National Oceanic and Atmospheric Administration (NOAA) laboratory in Beaufort, North Carolina, and to instead fund this facility so that the crucial work being done there can continue on into the future. This laboratory is uniquely located to address key marine science issues throughout the east coast of the U.S., and its loss would represent a devastating blow to the fisheries interests in the region. The decision to try and close the Beaufort facility represents a narrow-minded approach to a temporary funding concern that is dwarfed in comparison by the potential damage done to the research conducted on the marine resources in the southeast.

The closure of the Beaufort lab would be a grave error because of the loss of high-quality science and scientists associated with the facility. Located at the intersection of two distinct marine environments, the NOAA laboratory in Beaufort is uniquely situated to study one of the most diverse ecosystems in the country. The lab is an international leader in studies of harmful algal blooms (HABs) and the invasion of lionfish into the waters of the Atlantic Ocean, both of which are currently having a significant impact on the fisheries resources of the United States. The National Marine Fisheries Service (NMFS) programs at the lab are responsible for the assessment of the major marine fisheries stocks in the southeast, including menhaden (the largest fishery along the Atlantic coast as well as in the Gulf of Mexico) and the commercially and recreationally important snapper and grouper fisheries. NMFS in Beaufort also provides the only up-to-date information on the currently-closed red snapper fishery along the southeast coast through its SouthEast Fishery-Independent Survey. All of these programs would suffer irreparable damage were the lab to close because NOAA would be unlikely to retain the world-class scientists performing this research in the event their Federal positions were transferred to other NOAA facilities in the southeast; the NOAA lab is part of a unique conglomeration of research facilities in the Beaufort area, and the majority of employees would very likely try and remain in the area at a different institution rather than relocate to a less desirable location. Thus, NOAA (and NMFS in particular) would be forced to rebuild these programs from scratch, programs that are required to meet congress-

sional mandates laid out in the Magnuson-Stevens Fishery Conservation and Management Act. Just as importantly for NMFS, the closure of the Beaufort facility would mean that the Fisheries Service would not have a presence along the coast between Sandy Hook, New Jersey and Miami, Florida—an extent that covers over two-thirds of the United States east coast. It is difficult for the agency to claim they are interested in conserving the marine resources of the southeast with such a large spatial gap in representation, especially compared to five NMFS research facilities in the Gulf of Mexico and another five in the northeast.

The financial reasons given by the leadership of the National Ocean Service (NOS) for closing the Beaufort facility have been misrepresented and overblown. In their justification for closing the lab, NOS cited only the NOS employees that would be impacted, grossly underestimating the total number of workers at the site. In addition to NOS, the lab also houses National Marine Fisheries Service (NMFS) and National Estuarine Research Reserve System (NERRS) programs; between the three groups there are 108 Federal, State, and contract employees at the facility, a much larger disruption of staff than initially claimed. Additionally, NOS cited a cost of future maintenance repairs to the facility that was outdated and did not take into account recent work that has been done to upgrade the laboratory and its infrastructure. Since 2006, approximately \$14 million in repairs and upgrades have been accomplished, including the replacement of multiple buildings. The closure of this facility, after so much has been invested in its improvement in recent years, seems like a clear waste of taxpayer money, especially given that a 2014 report showed that the facility is structurally sound.

In summary, the closing of the NOAA facility in Beaufort is bad policy—it is a squandering of taxpayer funds, it is a major detriment to the science being conducted in the southeast, and it makes it more difficult for NMFS to maintain the quality of the work it is federally mandated to achieve. The laboratory in Beaufort has been operating continually since 1899 and was sited here specifically because of its advantageous position so close to so many of our Nation's valuable marine resources; Congress owes it to our country to make sure the high-quality work done here continues on for the next 115 years.

PREPARED STATEMENT OF GEORGE BOEHLERT, REDMOND, OREGON

To whom it may concern,

I am writing concerning the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) laboratory in Beaufort, North Carolina. I believe that closing this facility entirely is a mistake and have some recommendations for the subcommittee to consider.

First, I will provide some background on my credentials to comment. Although I retired in 2012, I have worked with a variety of National Marine Fisheries Service (NMFS) laboratories during my career, and have served as director of two. As a graduate student, I conducted my research at the NMFS Southwest Fisheries Science Center in La Jolla, California from 1972–77. I conducted postdoctoral research at the Northwest and Alaska Fisheries Science Center in Seattle from 1977–78. In academic positions from 1978–1983 at the College of William and Mary and at Oregon State University, I collaborated with NOAA/NMFS scientists at several labs, including the Beaufort Laboratory. In 1983 I took a position as division director at the NMFS Honolulu Laboratory, and served as director there in 1988–1993, and moved to Monterey, California in 1993 as director of the NMFS Pacific Fisheries Environmental Group. I left there in 2002 to return to Oregon, where I served as Professor and Director at Oregon State University's Hatfield Marine Science Center in Newport—a facility co-located with three different regional NOAA activities. I have served on external review panels of several NOAA labs and am highly familiar with the mission of the different organizations.

From my own perspective, the Beaufort Laboratory has a long history that has served NOAA and the central Atlantic Seaboard with distinction. As a relatively small lab for several decades, it addressed key issues of the National Marine Fisheries Service's mission, including fisheries management (menhaden, groundfish species, estuarine species), fundamental fisheries ecology, protected species (particularly sea turtles), and fisheries habitat (including toxic algal blooms). It conducted these tasks with distinction, with an enviable publication record as well as a record of solving fundamental fisheries problems in the region. I am familiar with these earlier endeavors, not only because I collaborated with scientists there, but also because I served as an external reviewer of some of their programs in the early to mid 1990s on behalf of the National Research Council. Beaufort was a perfect example of the value of the smaller regional laboratories, meeting the mission of the larg-

er NMFS and NOAA within the context of the Southeast Fisheries Science Center while collaborating with and augmenting regional State resource agencies.

Problems with smaller regional labs often arise when political or personal forces work to give them greater autonomy and higher budgets. In my opinion, this is the case with the Beaufort Laboratory and has played a role in making it a weaker laboratory. Roughly 10 years ago, NOAA decided to put the Beaufort Laboratory under a different line office—the National Ocean Service (NOS), expanding the mission significantly but keeping many NMFS employees on site. The broader mission requires more funds, more scientists with more expertise, more buildings, and an expanded budget. While the mission was more diverse, it was also more vague and perhaps less focused on the particular regional needs. I am not sure why a decision to close the laboratory was made this year, but it may be related to the loss of focus in mission and thus to questions about the value of the organization.

Finally, I do have some recommendations for the subcommittee. Rather than taking a meat axe approach and closing this laboratory entirely, I believe that an external review of the Beaufort Laboratory's mission and function is needed. Direction should be given for this review that will address key issues, including the following:

- Critical regional needs within NOAA's mission that can be addressed best by a regional lab as opposed to larger facilities located in different regions. This should have significant input from the regional coastal States and their resource agencies;
- Organizational structure of the laboratory within NOAA—given the critical needs identified above; for example, determining whether NOS is the right place, or if NMFS a better match for the regional needs; and
- Staff size, budgets, and physical facilities required to meet these needs.

Armed with the output of such a review, a values-based decision can be made that is beneficial to both NOAA and the regional States; it may well involve significant cuts and a smaller laboratory, but will be based on an appropriate and well-thought out approach. I continue to believe that small regional labs with a clear focus, embedded within the larger NOAA and line office structure, are of extremely high value.

Thank you for the opportunity to comment.

PREPARED STATEMENT OF THE BRENNAN CENTER FOR JUSTICE

Chairman Mikulski, Ranking Member Shelby, and distinguished members of the Senate Appropriations Subcommittee on Commerce, Justice and Science, thank you for the opportunity to submit written testimony before the committee to discuss fiscal year 2015 budget priorities. The testimony is offered to the subcommittee for use during its consideration of Department of Justice criminal justice funding.

The Brennan Center for Justice at New York University School of Law¹ is a non-partisan law and policy institute that seeks to improve the national systems of democracy and justice. The Brennan Center for Justice was created in 1995 by the clerks and family of the late Supreme Court Justice William J. Brennan, Jr. to improve our systems of justice and democracy. The Justice Program at the Brennan Center is dedicated to ensuring a rational, effective, and fair justice system. Our priority initiative is to reduce mass incarceration by reducing the criminal justice system's current size and severity; while still protecting public safety.

The Department of Justice (DOJ) administers dozens of criminal justice grants, which total over \$1 billion each year. In 2012, the Community Oriented Policing Services and Violence Against Women Act grants received more than \$1.45 billion. Most notably, the Edward J. Byrne Memorial Justice Assistance Grant (Byrne JAG), the largest nationwide criminal justice grant program administered by DOJ, receives between \$300 million to \$500 million each year. It retains an enormous influence on criminal justice policies and priorities. JAG dollars reach across the entire criminal justice system. They reach all States, territories, and thousands of localities, mainly flowing to law enforcement. These funds support local police departments, drug courts, prosecutor and public defender offices, courts, and more. While important, the structure was created more than 30 years ago, based on criteria and priorities at a time of rising and seemingly out of control crime. Decades after its inception, the criminal justice system that JAG dollars were created to support has spiraled into one that now supports the world's largest population of incarcerated people and all of the inherent problems that come with this distinction.

It is time for a change. A better approach, termed "Success-Oriented Funding" would use the power of the purse to steer the criminal justice system toward the

¹This letter does not represent the opinions of NYU School of Law.

twin goals of reducing crime *and* reducing mass incarceration—goals research shows are not in conflict. The Brennan Center for Justice recently published a report highlighting a way to align fiscal and policy priorities.² Grounded in economic principles and built on discrete models in other policy areas, Success Oriented Funding ties Government dollars as closely as possible to whether agencies or programs meet specific, measureable goals. These goals would drive toward what policymakers and researchers increasingly see as a new, modern, and more effective justice system. The model imports private sector business principles and applies it to public dollars.

Economic theory indicates that actors provided with clear positive rewards will usually alter their behavior to match these incentives. Former Chairman of President George W. Bush's Council of Economic Advisors and Harvard University Professor N. Gregory Mankiw articulates this fundamental tenet in "Principles of Economics"—one of the most widely-used introductory economics textbooks. He defines the discipline in this way: "People respond to incentives. The rest is commentary."³ By setting clear goals for success or failure of government agencies and programs, Success-Oriented Funding would fund "success," achieving results-driven government. This cost-effective framework ensures that the government is getting a good return on its investment. Broad goals for funding recipients include reducing recidivism and crime, or reducing unnecessary prison sentences and incarceration. Grant-specific goals would vary depending on the agency or program funded. For example, grants for police could focus on reducing violent crime or diverting drug addicted arrestees to treatment.

Illinois has seen great success with its investment and support of the Adult Redeploy Illinois program, which diverts non-violent offenders from prison into more effective community-based services. Adult Redeploy Illinois provides financial incentives to local jurisdictions that design evidence-based services to supervise and treat non-violent offenders in the community instead of sending them to State prisons. Since 2011, Adult Redeploy Illinois sites have diverted more than 1,000 non-violent offenders. These sites spent an average of \$4,400 per program participant, compared to the annual per capita incarceration cost of \$21,500 in State fiscal year 2011. This represents more than \$18.5 million in potential corrections savings.⁴ By investing in programs like Adult Redeploy Illinois, Congress can make inroads in achieving better taxpayer accountability while using funding to improve criminal justice outcomes.

Last month, President Obama introduced his fiscal year 2015 budget proposal for the Department of Justice, which requests \$27.4 billion for the Justice Department, of which \$173 million is set aside for targeted investments for criminal justice reform efforts. The budget also calls for an investment of \$173 million to support the Attorney General's *Smart on Crime* initiative, which is intended to promote fundamental reforms to the criminal justice system that will ensure the fair enforcement of Federal laws, improve public safety, and reduce recidivism by successfully preparing inmates for their re-entry into society.

The President's budget provides a needed boost to the types of competitive, evidence-based grant programs that make better use of taxpayer dollars. His budget also improves the Byrne JAG program, by calling for an additional \$45 million to be funded through competitive grants that are conditioned on potential Byrne JAG program recipients making a good case for how they will use the money. The budget also creates a \$15 million incentive grant program, essentially bonus money for which States and localities can compete.

By increasing funding for competitive, evidence-based programs, the administration is communicating its desire to move away from blindly funding legacy programs without strong records of success, and towards modern programs that work at reducing crime and incarceration and improving public safety.

The Brennan Center supports these efforts because they move budgeting and funding toward Success-Oriented Funding by holding recipients of Federal dollars accountable for their spending choices by implementing direct links between funding and proven results. This allows Congress to ensure the criminal justice system is producing results while not increasing unintended social costs. Success-Oriented funding principals improve the use of taxpayer money, promote accountability and reduce government waste.

²Chettiar, Inimai; Eisen, Lauren–Brooke, Fortier, Nicole; *Reforming Funding to Reduce Mass Incarceration*, Brennan Center for Justice, Nov. 2013. https://www.brennancenter.org/sites/default/files/publications/REFORM_FUND_MASS_INCARC_web_0.pdf.

³N.Gregory Mankiw, *Principles of Economics* 7 (6th ed. 2012) (quoting Steven E. Landsburg, *The Armchair Economist* 3 (2012)).

⁴http://www.icjia.org/public/redeploy/pdf/articles/Adult_Redeploy_Illinois_media_stories_011714.pdf.

Restructuring the way taxpayer dollars are sent to law enforcement and other criminal justice agencies nationwide can do a great deal to modernize our outdated criminal justice system. Funding these incentive based grants would mark an important shift in how the Federal Government spends dollars on criminal justice. Because these dollars travel across the country, changing incentives for these grants can create change that reverberates nationwide.

We encourage you to fully fund the Byrne Incentive grant program, the Byrne Innovation grant program, and the Byrne Competitive grant program.

Respectfully submitted,

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PREPARED STATEMENT ON THE BUREAU OF PRISONS BUDGET

ORGANIZATIONS SUBMITTING TESTIMONY

AFL-CIO	Justice Strategies
American Civil Liberties Union	Maryknoll Office for Global Concerns
American Gateways	National Advocacy Center of the Sisters of the Good Shepherd
American Immigration Lawyers Association	National African American Drug Policy Coalition, Inc.
Americans for Immigrant Justice	National Center for Transgender Equality
Asian Americans Advancing Justice- Chicago	National Immigrant Justice Center
Asian Americans Advancing Justice-Los Angeles	National Immigration Forum
Black Alliance for Just Immigration (BAJI)	National Immigration Law Center
Coalición de Derechos Humanos	National Immigration Project of the NLG
Coalition for Humane Immigrant Rights of Los Angeles	New Sanctuary Coalition
Conference of Major Superiors of Men	Picture Projects/360degrees.org
Detention Watch Network	Presbyterian Church (U.S.A.)
DRUM—South Asian Organizing Center	Private Corrections Institute
Enlace	Private Corrections Working Group
Families for Freedom	Reformed Church of Highland Park (New Jersey)
Friends Committee on National Legislation	Sisters of Mercy of the Americas— Institute Justice Team
Georgia Detention Watch	Southern Center for Human Rights
Grassroots Leadership	Texas Civil Rights Project
Human Rights Defense Center	The Sentencing Project
Illinois Coalition for Immigrant and Refugee Rights	Transgender Law Center
In The Public Interest	United Methodist Church, General Board of Church and Society
International CURE	Wilco Justice Alliance (Williamson County, TX)
Justice Policy Institute	

TESTIMONY ADDRESSED TO

The Honorable Barbara Mikulski, Chair	The Honorable Richard C. Shelby, Ranking Member
The Honorable Patrick J. Leahy	The Honorable Mitch McConnell
The Honorable Dianne Feinstein	The Honorable Lamar Alexander
The Honorable Jack Reed	The Honorable Susan Collins
The Honorable Mark Pryor	The Honorable Lisa Murkowski

The Honorable Mary L. Landrieu	The Honorable Lindsey Graham
The Honorable Jeanne Shaheen	The Honorable Mark Kirk
The Honorable Jeff Merkley	The Honorable John Boozman
The Honorable Chris Coons	

Subcommittee on Commerce, Justice, Science,
and Related Agencies
Senate Committee on Appropriations
SD-142, Dirksen Senate Office Building
Washington, DC 20515

Re: Do not appropriate funds for additional private prison contract beds in the Bureau of Prisons budget

Dear Chairwoman Mikulski, Ranking Member Shelby, and members of the subcommittee: We, the undersigned organizations working to ensure civil liberties and human rights in our communities, urge that you do not appropriate funding for any additional Bureau of Prison “Criminal Alien Requirement” (CAR) contract confinement beds beyond those that now exist.

CAR prisons use taxpayer funds to incarcerate non-violent, “low security” Federal immigrant prisoners, primarily prosecuted for immigration violations through the highly controversial program, “Operation Streamline” and related prosecution programs. These facilities are substandard, privately-owned, privately-operated segregated immigrant prisons. For the reasons set forth below, we call upon you to redirect funding from the wasteful prosecution and incarceration of low-level immigration violations and focus resources instead on correctional programs that will better prepare Federal prisoners for constructive lives when they are released from confinement.

The increasing incarceration of immigrants is the direct result of a prosecution program known as “Operation Streamline” and the sharp increase in felony prosecutions for border crossing. Nearly 90,000 people were convicted in Federal courts during fiscal year 2013 for crossing the border.¹ Prior to “Operation Streamline,” which launched in 2005, the majority of immigrants apprehended after entering the United States without documentation were processed in the civil immigration system. Now, these migrants are charged with one of two Federal crimes—(1) unlawful entry to the U.S. (8 U.S.C. § 1325), usually prosecuted as a misdemeanor with defendants facing a sentence of up to 180 days; or (2) unlawful re-entry after deportation (8 U.S.C. § 1326), a felony charge carrying a Federal prison sentence of up to 20 years.

Once sentenced for § 1326 violations, immigrants are typically segregated from other Federal prisoners and sent to CAR facilities, dedicated private prisons for non-citizen immigrants in BOP custody, to serve their time. Unlike Federal prisons operated directly by the BOP, CAR prisons are operated under contract with multi-billion dollar for-profit prison companies, including Corrections Corporation of America (CCA) and the GEO Group. Also unlike BOP facilities, CAR facilities are governed by policies that BOP and its private prison contractors often withhold from the public as “trade secrets” instead of open and transparent to the public. CAR facilities are often located in remote parts of the country, where prisoners are far from lawyers, courts, advocates and family members. Finally, unlike the BOP, the corporations that operate CAR prisons have an incentive to ensure the immigrant prisoner population continues to increase, because every prison bed with a body in it means higher profits.²

Both Federal prosecutions for border crossing and CAR prisons are enormously expensive to maintain at a time when budgets are tight and Federal dollars are sparse. The Federal Government spent an estimated \$5.5 billion incarcerating border-crossers in the Federal prison system between 2005 and 2012, and the primary beneficiary of this massive cash flow is the private prison industry.³ Even as the American economy has faltered and businesses across the country have been forced into bankruptcy, the private prison industry is booming. Three companies—GEO Group, Corrections Corporation of America (CCA), and the Management Training

¹ Transactional Records Access Clearinghouse, Syracuse University, “Immigration Convictions for 2013,” available at <http://tracfed.syr.edu/>.

² Justice Strategies, “Privately Operated Federal Prisons for Immigrants: Expensive, Unsafe, Unnecessary,” September, 2012, available at <http://www.justicestrategies.org/publications/2012/privately-operated-federal-prisons-immigrants-expensive-unsafe-unnecessary>.

³ Grassroots Leadership, “Operation Streamline: Costs and Consequences,” September 2012, available at http://grassrootsleadership.org/sites/default/files/uploads/GRL_Sept2012_Report-final.pdf.

Corporation (MTC)—monopolize Federal prison contracting. CAR contracts are very lucrative. The CAR contract issued to house up to 3,000 prisoners at the infamous Willacy County Processing Center, the “Tent City” located in Raymondville, Texas, was valued at \$532,318,723 over 10 years.⁴ MTC won the contract.

The number of undocumented immigrants entering the United States without inspection has been steadily declining for the last several years, largely due to economic conditions in the U.S. and countries of origin. Yet private prison corporations, motivated by their record profit margins, continue to benefit directly from the laws and policies that pull more and more immigrants into the Federal prison system, and from Federal contracts to build more prisons. Increasing funding for the unprecedented imprisonment of immigrants implicitly sanctions wasteful and abusive prosecution programs for border crossing that are driving the increase in the Federal prison population in the first place. It is up to policy makers like you to put a stop to the suffering of immigrant families and wasteful spending which benefits no one except the private prison operators.

For all of the above reasons, we ask that you do not appropriate funding for any additional Bureau of Prison “Criminal Alien Requirement” (CAR) contract confinement beds beyond those that now exist.

Thank you for your attention to this urgent matter. If you have any questions, please contact Alexis Mazón, Researcher with Justice Strategies at alexismazon@justicestrategies.net, (510) 725-4136, or Bob Libal, Executive Director of Grassroots Leadership at blibal@grassrootsleadership.org, (512) 971-0487.

PREPARED STATEMENT OF THE CALIFORNIA ASSOCIATION OF PSYCHIATRIC
TECHNICIANS

FEDERAL FUNDS USED TO SUE & SHUTTER FEDERALLY ACCREDITED CARE FACILITIES

On behalf of approximately 14,000 California Licensed Psychiatric Technicians representing the Nation’s gold standard in direct-care nursing services for people with developmental disabilities and mental illnesses, I am writing to respectfully request that the subcommittee, committee and Congress as a whole end the ability for the U.S. Department of Justice to use its office, powers and funding to discourage, downsize and close federally regulated and accredited congregate-care facilities.

OLMSTEAD RULING UPHOLDS AMERICANS’ RIGHTS AND CHOICES FOR CARE

In recent years, the national demand for closure of congregate-care facilities such as developmental centers and State hospitals has come perhaps most strongly—and, perhaps, most surprisingly—from the Federal Government: the very Federal Government that requires these facilities to meet its own regulatory standards.

To be federally certified through the U.S. Centers for Medicare and Medicaid Services, such congregate settings as developmental centers (ICF/MRs and ICF/DDs) must meet eight major criteria on management, client protections, facility staffing, active treatment, client behavior and facility practices, healthcare services, physical environment and dietetic services. To meet all of these major criteria, these accredited centers must comply with 378 specific Federal standards and elements. Failure to comply with any one of these hundreds of requirements or to swiftly correct any deficiencies means the loss of Federal certification as well as Federal Medicaid funding.

In its landmark 1999 Olmstead ruling on the use and choice of federally accredited congregate-care settings such as these, the U.S. Supreme Court ruled that Americans have the right to “community”-based housing and care, specifically when the “State’s treatment professionals [including Psychiatric Technicians and other members of treatment teams charged with following and implementing individuals’ program plans] have determined that community placement is appropriate, transfer is not opposed by the affected individual and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.”

THE DOJ DELIBERATELY & DANGEROUSLY MISINTERPRETS OLMSTEAD

But the Federal U.S. Department of Justice—charged with upholding the Olmstead ruling through its Civil Rights Division and its powers under the Ameri-

⁴Jasen Asay, “Private Prison Company Lands Federal Contract,” Standard Examiner, June 8, 2011, available at <http://www.standard.net/topics/economy/2011/06/07/private-prison-company-lands-Federal-contract>.

cans with Disabilities Act B has overstepped its mission and taken a dangerous carte blanche approach to enforcing Olmstead.

As currently and accurately stated and emphasized on the DOJ's own Olmstead section of its Web site, "The [U.S. Supreme] Court held that public entities must provide community based services to persons with disabilities when (1) such services are appropriate; (2) the affected persons do not oppose community based treatment; and (3) community based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity."

Nevertheless, to date, the DOJ has filed more than 40 actions in more than 25 States during the past 5 years aimed at downsizing and closing federally regulated congregate-care facilities, regardless of the individual and unique wishes and needs of their residents and legal conservators. As part of a Federal push beginning in 2009, the DOJ has taken a stated and active position of "Community Integration for Everyone"—whether Americans and their families and legal conservators wish it or not B and whether or not this position violates Americans' rights and choices under Olmstead:

- In 2010's *United States v. Georgia*, DOJ did not consult families and legal guardians prior to entering into a settlement requiring closure of federally accredited congregate-care facilities and forcing all residents B regardless of their wishes, choices and needs guaranteed under Olmstead—into community-based care.
- In 2011's dismissal order for *United States v. Arkansas*, which ruled against the DOJ regarding Conway Human Development Center, U.S. District Judge J. Leon Holmes noted that "all or nearly all of those residents have parents or guardians who have the power to assert the legal rights of their children or wards. Those parents and guardians, so far as the record shows, oppose the claims of the United States. Thus, the United States is in the odd position of asserting that certain persons' rights have been and are being violated while those persons—through their parents and guardians—disagree."
- In 2012's *United States v. Virginia*, families, parents and legal guardians were not included in the exhaustive list of stakeholders interviewed by the DOJ prior to that State's settlement; families had to spend \$125,000 of their own money to be included in the settlement process and to include their on-record opposition to DOJ's statement that "the parties' . . . desire to phase out the residential Training Centers and transition all Virginians with ID/DD to community-based care is readily apparent."

STOP FUNDING DOJ ACTIONS TO RESTRICT FEDERALLY RECOGNIZED CHOICES

On behalf of CAPT's members—who are trained, licensed and pledged to uphold the choices and rights of Californians with developmental disabilities and mental illnesses, wherever they wish to live and receive services—I am respectfully requesting that the subcommittee end the use of Federal funding and staff of the U.S. Department of Justice to discourage, downsize and close federally regulated congregate-care facilities against the federally and legally protected wishes of residents and their families.

PREPARED STATEMENT OF THE CENTER FOR BIOLOGICAL DIVERSITY

Chairman Leahy, Ranking Member McConnell, and members of the subcommittee, thank you for the opportunity to submit written testimony. I am Brett Hartl, endangered species policy director at the Center for Biological Diversity. The Center is a non-profit environmental organization focused on the protection of native species and their habitats through science, policy and environmental law. The Center has more than 775,000 members and online activists dedicated to the protection and restoration of imperiled plants and wildlife, open space, air and water quality, and overall quality of life. We would like to submit testimony on the NOAA Fisheries Office of Protected Resources and the Enforcement and Observers budget for fiscal year 2015. The Office of Protected Resources is responsible for protecting 93 species under the Endangered Species Act. Enforcement and observers are critical to implement the protections of the Endangered Species Act as well as the Marine Mammal Protection Act.

The Endangered Species Act (ESA) is America's strongest environmental law. It has prevented the extinction of 99 percent of the 1,500 domestic species it protects. Were it not for the Act, scientists estimate that 227 of these plants and animals would have disappeared by 2006, and even more by 2012. The Act also has had considerable success moving species towards recovery. For example, the gray whale was

first protected in 1970. The eastern population, which migrates from Baja California to the Chukchi Sea each year, was recovered to its estimated pre-whaling population size in just 24 years. Similarly, after just 23 years of protection under the ESA, the eastern population of Steller sea lion was delisted in 2013, having suffered for nearly a century from poaching, irrational predator-control actions, and from the near collapse of its main food sources due to unsustainable fishing practices. The recoveries of these species show the value and effectiveness of the ESA's strong protection measures.

However, not all species that are protected by NOAA are improving. NOAA's 2012 recovery report to Congress indicated that approximately 16 threatened and endangered marine species are still declining towards extinction. And as the extinction crisis worsens due to threats including climate change, many other once-common species, such as the staghorn and elkhorn Corals that once were the dominant reef building corals of Florida, have experienced major population declines and now are being moved from threatened to endangered status. Scientists warn us that the world's coral reefs are in crisis and will be destroyed within decades unless we act now. That is why 66 additional corals found in U.S. waters await final rules before they will gain the safety net of the ESA.

Accordingly, we strongly support the administration's request for an additional \$4 million dollars to complete the listing process. This funding is desperately needed to give NOAA the tools it needs to start addressing the difficult threats that the world's coral reefs face. However, even with this additional funding, overall funding for protected resources is lagging and is not keeping up with the biological needs of protected species in the United States.

Marine biodiversity is at risk, along with the coastal communities that depend on the ocean—but there are solutions. Increasing the funds for the Protected Resources division of the NOAA Fisheries Service will ensure that declining, threatened, and endangered marine species will get the resources they need to recover to the point where they no longer need the protections of the Endangered Species Act.

ADDITIONAL FUNDING IS STILL NEEDED FOR RECOVERY

As scientists learn more about the oceans, it is becoming increasingly clear that the threats to marine biodiversity continue to grow. Unfortunately, funding resources to protect marine species is not keeping up with the biological needs of these species. Funding for Protected Resources peaked in 2010 at approximately \$204 million and has since declined approximately 9 percent. This decline occurred even though 20 additional species—such as the Puget Sound canary rockfish and Atlantic sturgeon—have been protected by NOAA under the ESA in the previous 4 years. As a result, the average funding per species has actually decreased 23 percent over the last 4 years.

This funding situation for threatened and endangered species will become even more difficult if additional resources are not allocated since an additional 80 species—including 66 coral species, the dwarf sawfish, and the scalloped hammerhead shark—have been proposed for listing and will likely receive protection under the ESA within the next year. An additional 34 species are currently candidate species that may eventually be protected under the ESA. If funding does not keep up with the growing threat to marine biodiversity, the recovery of threatened and endangered species will become more difficult to achieve.

OTHER PROTECTED SPECIES

As stated above, the Center supports the \$4 million budget increase for the “other protected species” category to address the listing of 66 coral species. We would also like to point out the possibility of reconsidering the relative allocations of the remaining five categories of funding for protected resources in future years. Specifically, the “Other Protected Species” category currently covers all non-salmonid marine fish, invertebrates, and plants. This category includes important animals such as the Nassau grouper, great hammerhead shark, queen conch, and the pinto abalone, and should not be overlooked for funding despite its broad characterization.

Last year in the Commerce-Justice-Science Committee Report, Congress allocated \$49 million to marine mammals, \$13 million to sea turtles, \$6 million to Atlantic salmon, and \$65 million to Pacific salmon. In contrast, \$7 million was allocated to “Other Protected Species,” which includes all other marine fish, invertebrates, and marine plants. In other words, 73 listed species received \$133 million in recovery funding, while 20 “other” species received just \$7 million in funding. If all of the species currently proposed for listing are ultimately protected under the ESA, the number of species in the “Other” category would increase from 20 species to 100 species, while there would be no change in the number of protected marine mam-

mals, sea turtles, or salmonids. Furthermore, if the species that NOAA currently identifies as candidates for listing are ultimately protected, the number of species in the “Other” category would increase further to 132 listed species. The number of protected marine mammals would increase from 28 listed species to 33 listed species and the number of protected sea turtles and salmonids would remain the same.

Simply put, in a few years time, the number of “Other” protected species may represent over 60 percent of the species under NOAA’s jurisdiction. If the current allocations are not eventually reconfigured, these species would receive less than 5 percent of the overall recovery budget. Such limited funding would likely be insufficient to protect these species, let alone put them on a path towards recover. Accordingly, the Center recommends that the committee requests that NOAA develop a plan on how they will allocate resources within Protected Resources over the next 2 years to address the increase in recovery needs for these “Other” species going forward.

Finally, we hope that the committee will recognize that funding for these new species should not come at the expense of those species that are currently protected. Cutting funding from species that are already protected by the ESA, especially those species that are still declining, is not a long term strategy for achieving recovery. Instead, additional funding should be allocated to meet the full scope and scale of the extinction crisis that is occurring in our world’s oceans. Four years after the worst oil spill in the United States’ history, scientists are just beginning to learn how severely the oil spill impacted the marine environment. Restoring ocean ecosystems, including endangered species, has proven to be more complex and costly than was once thought. Providing NOAA with the necessary funds to address its responsibilities under the ESA is an important step in protecting our ocean’s biological diversity.

MAINTAIN OR INCREASE FUNDING FOR STRANDED MARINE MAMMALS

NOAA requested a decrease of \$2,500,000 for the John H. Prescott Marine Mammal Rescue Assistance Grant Program and the Marine Mammal Protection Program. The President’s budget request did not include funding for the John H. Prescott Grant Program in fiscal year 2014, but Congress thankfully kept the program alive. Last year California, Florida and the Mid-Atlantic had unusual mortality events of California sea lions, manatees and bottlenose dolphins. With decreased Federal funding, State stranding networks struggle to respond to marine mammals washing ashore. Virginia reportedly had over 30 animals in 2 days stranded on its beaches over one weekend in the last year’s die-off and had a total of 346 dolphins die since July 1, 2013.

Scientific investigations to understand the causes of these events can help assess ocean health and protect humans. In 2010, nearly 40 percent of the Nation’s population lived in coastal areas. Ensuring that States have adequate resources to respond to and study marine mammal strandings will help keep marine mammals safe and our coasts clean.

INCREASE OBSERVER COVERAGE FOR FISHERIES

Observer coverage in fisheries is essential to ensure the best possible management of our fisheries. This program ensures that our fisheries are on a sustainable path for long term success and allows NOAA to prevent whales, sea turtles, and sharks from drowning in fishing gear.

This year’s budget should increase funding to collect accurate fisheries data, especially from the observer program. While NOAA’s request for an increase of \$4,000,000 for Electronic Monitoring and Reporting may pave the way for future innovation, NOAA also needs an increase now in the budget for Enforcement and Observers.

This funding is needed most importantly because several fisheries lack resources to ensure meaningful observer coverage to monitor bycatch of sea turtles, sharks, and marine mammals. For example in 2012, a longline fishing area NOAA once closed to longline fishing due to sea turtle take (the Northeast Distant area) had no observer coverage during the third and fourth quarters of the year, when sea turtle interactions are highest. Low observer coverage undermines confidence in management decisions and can result in severe emergency measures.

Starting in 2014 observers must report fishing and marine pollution violations. Additional funding will be needed to effectively implement the changes in policy and increase observer-related enforcement once observers report violations. Adequate observer program funding ensures a fair playing field for U.S. fishermen and keeps fishing sustainable.

Thank you for the opportunity to submit testimony.

PREPARED STATEMENT OF THE COASTAL STATES ORGANIZATION

The Coastal States Organization (CSO) is a nonpartisan, nonprofit organization in Washington, DC that represents the Governors of the 35 coastal States, territories and commonwealths and their issues relating to the sound management of coastal, Great Lakes, and ocean resources. CSO was established in 1972 and is recognized as the trusted representative of the collective interests of the coastal States on coastal and ocean management. For fiscal year 2015, CSO supports the following coastal programs and funding levels within the National Oceanic and Atmospheric Administration (NOAA):

Coastal Zone Management Grants Program (§§ 306/306A/309)	\$70 million
Regional Coastal Resilience Grants	\$10 million
Coastal Zone Management and Services	\$46.472 million
Coastal and Estuarine Land Conservation Program	\$5 million
National Estuarine Research Reserve System	\$22.9 million
Coral Reef Conservation Program	\$26.078 million

The U.S. economy is an ocean and coastal economy and this needs to be reflected in our Federal investment into ocean and coastal programs. While only accounting for 18 percent of the U.S. land area, coastal areas are home to 163 million people and almost 5 million businesses. Home to coastal and ocean dependent industries, including marine transportation, tourism, marine construction, aquaculture, ship and boat building, mineral extraction, and living marine resources, coastal counties contribute \$8.7 trillion to U.S. GDP and employ 67 million people. If these coastal counties were their own country, they would have the world's third largest economy, behind the European Union and the United States. Coasts and oceans are visited by nearly half of all Americans, adding to their health and quality of life. The non-market value of recreation alone is estimated at over \$89 billion. Every American, regardless of where they live, is fundamentally connected to U.S. coasts, oceans, and Great Lakes. These valuable resources are a critical framework for commerce, public recreation, energy, and environmental health and merit robust investment.

Today, our Nation's coasts are as vital for our future as they are vulnerable. As a result of their increasing recreational, residential, and economic appeal, there are more pressures on our coastal and ocean resources. This demand, combined with an increase in natural hazards such as sea level rise, extreme weather, and other flooding events, highlight the danger of losing these invaluable national assets. Despite the difficult budgetary times, adequate and sustained funding is needed to support the key programs that are on the front lines of this daily battle, which continually advance coastal and ocean science, research, and technology to manage our coastal and ocean resources for future generations.

Programs engaged in these important efforts and working to balance the protection of coastal and ocean resources with the sustainable development of the coasts include the Coastal Zone Management Program, Coastal and Estuarine Land Conservation Program, Regional Coastal Resiliency Grants, the Coral Reef Conservation Program, and National Estuarine Research Reserves. These programs reside within the National Oceanic and Atmospheric Administration (NOAA) and provide direct funding or services to the States, territories and regions to implement national coastal and ocean priorities at the State, local, and regional level. These types of partnership programs account for only a small portion of the total NOAA Federal budget but provide dramatic results in coastal communities. The funding for these programs is cost-effective, as these grants are matched by the States and used to leverage significantly more private and local investment in our Nation's coasts. Maintaining funding for these programs that provide on-the-ground services to our local communities and citizens is well worth the investment. In fact, the Federal Emergency Management Agency (FEMA) estimates that every \$1 invested in community resilience it will reduce disaster damages by \$4.

COASTAL ZONE MANAGEMENT PROGRAM (§§ 306/306a/309)

CSO recommends that these grants be funded at \$70 million.—This funding will be allocated among the 34 States and territories that have approved coastal zone management programs. Pursuant to the Coastal Zone Management Act (CZMA), States partner with NOAA to implement coastal zone management programs designed to balance the need to maintain productive coastal and ocean resources with the need for the sustainable development of coastal communities. States have the flexibility to develop programs, policies, and strategies targeted to their State priorities while concurrently advancing national goals. Under the CZMA program, the States receive grants from NOAA, which are then matched with State funding and

then often further leveraged with private and local funds. These grants have been used to support and enhance coastal economies by resolving conflicts between competing coastal uses, reducing environmental impacts of coastal development, and providing critical assistance to local communities in coastal planning and resource protection.

These State coastal zone management programs reflect a unique and successful Federal-State partnership. Coastal management has become a national priority, as they are critical to building coastal resilience against extreme weather events and educating and guiding communities to build their homes and businesses in ways that minimize the threat of loss. Events like Superstorm Sandy and Hurricane Katrina reinforced the importance of planning ahead. Coastal zone management programs ensure that the national interest in a resilient coast is incorporated in State actions, while respecting the sovereignty, different priorities, and geographic variations of our diverse States.

The CZMA State grants have essentially remained at an even funding level for a decade, resulting in decreased capacity in State coastal zone management programs and less funding available to communities. An increase to more than \$91 million would be necessary to reach actual level funding that accounts for inflation since 2001 and would provide an additional \$300,000—\$800,000 for each State and territory. However, CSO recognizes that the current fiscal climate makes such an increase challenging. By maintaining current funding levels, States and territories would receive between \$850,000 and just over \$2,300,000 to carry out their coastal management programs based on a formula that considers shoreline miles and coastal population. The following are a few examples of activities in Maryland and Alabama that CZM State grants have recently funded. These types of contributions, and more, can be found around the Nation.

Maryland

- Maryland's CZM Program worked with land conservation partners to preserve 4,468 acres of critical coastal habitat for storm protection, water-filtering benefits, fish nurseries, or recreation through acquisition and easements. Maryland completed projects that protected 4,980 linear feet of nearshore habitat from erosion while providing critical habitat through the implementation of shoreline management techniques such as living shorelines.
- Maryland's Coastal Zone Management Program has collected 1.05 tons of debris as a part of annual Maryland Coast Days and Assateague Coastal Clean-ups, created four new public water access (non-motorized) sites, and exposed over 21,000 students with the opportunity to participate in a classroom or outdoor experience.
- CZMA funding in Maryland assisted 5 coastal communities in reducing vulnerability to future storm events, shoreline change and sea level rise and incorporating those considerations into local plans, codes and ordinances. Additionally, CZMA funding assisted 6 communities that developed designs or plans to reduce polluted runoff through the Watershed Assistance Collaborative.

Alabama

- Last year, CZMA funding in Alabama supported the 26th Annual Alabama Coastal Clean-up with over 3,700 volunteers are removed 38,000 pound of marine debris.
- In fiscal year 2013, the Alabama Coastal Area Management Program provided funds for the public access improvements to City of Chickasaw, City of Foley and Dauphin Island Park and Beach Board; the Mobile Bay National Estuary Program to facilitate Phase II of the development of the Coastal Area and Marine Planning Program; the Dauphin Island Sea Lab to conduct Phase I of Coastal Habitat Restoration Project Monitoring; the City of Chickasaw to develop a comprehensive plan and to develop a Three Mile Creek Watershed Management Plan; the City of Fairhope to develop low impact development standards and ordinance; Town of Dauphin Island and the City of Gulf Shores; the City of Orange Beach, for local beach and dune protection program; and the sea turtle/share the beach program and the annual Alabama Coastal Birding Festival.

Several years ago, a grant cap of approximately \$2,000,000 per State was instituted to allow for funding to be spread more evenly across the States and territories, so as to prevent most of the funding from going entirely to the larger, more heavily populated States. Now, however, over half of the States have met the cap and no longer receive an increase in funding, despite increased overall funding for CZMA State grants since that cap was introduced. Since the cap was never intended to serve as a barrier to States receiving reasonable increases intended for all States,

CSO recommends that the subcommittee include language in the appropriations bill report that allows the cap to be exceeded when it is fair and consistent with the original purposes of the cap. To that end, CSO suggests language declaring that each State will receive no less than 1 percent and no more than 5 percent of the additional funds over and above previous appropriations. As was provided previously by the subcommittee, CSO also requests that language be included in the appropriations bill report that directs NOAA to refrain from charging administrative costs to these grants. This is to prevent any undue administrative fees from NOAA from being levied on grants intended for States.

COASTAL AND ESTUARINE LAND CONSERVATION PROGRAM

CSO requests the Coastal and Estuarine Land Conservation Program (CELCP) not be terminated, as has been previously proposed in the President's budget. Authorized by Congress in 2002, CELCP protects "those coastal and estuarine areas with significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational states to other uses." To date, Congress has appropriated over \$250 million for CELCP. This funding has allowed for the completion of over 175 conservation projects, with more in progress. CELCP projects in 28 of the Nation's 35 coastal States have already helped preserve more than 100,000 acres of the Nation's coastal assets. All Federal funding has been leveraged by at least an equal amount of State, local, and private investments, demonstrating the broad support for the program, the importance of coastal protection throughout the Nation, and the critical role that Federal funding plays in reaching the conservation goals of our coastal communities. CELCP is the only Federal program entirely dedicated to the conservation of these vital coastal areas.

The need for CELCP funding far exceeds federally appropriated funds in recent years. In the last two funding cycles (fiscal year 2012 and fiscal year 2014), NOAA, in partnership with the States, has identified, deemed eligible, and ranked over \$64.1 million in projects with willing sellers and State funding match available. Adequate and sustained funding is needed to meet the demand of the increasingly high-quality projects developed by the States and submitted to NOAA. The importance of natural barriers in preventing and reducing storm impacts was recognized in the wake of Superstorm Sandy, when these types of areas provided buffers and increased resilience in the face of storm surge. Therefore, we request your support for minimally restoring funding at the fiscal year 2012 enacted level for CELCP.

REGIONAL COASTAL RESILIENCY GRANTS

\$10 million in grants for Regional Coastal Resiliency Grants is needed to provide competitive funding to ensure our States and communities are prepared to face changing ocean conditions, from acidification to sea level rise, changing economic conditions, from recession to emerging ocean uses, as well as major catastrophes, from tsunamis to marine debris clogging waterways. Resilient communities invest proactively to ensure they avoid unnecessary costs—economic, social, and environmental—in the future. These grants will help States, local communities, and other stakeholders produce on-the-ground results that benefit both the economy and the environment, including cutting edge science and practical tools like maps and surveys. This request is an increase above the President's request of \$5,000,000 in order to fully establish this key competitive grant program that is designed to promote resilience and address shared risks of weather events and hazards on coastal communities and economies.

NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

The National Estuarine Research Reserve System (NERRS) partners with States and territories to ensure long-term education, stewardship, and research on estuarine habitats. Atlantic, Gulf, Pacific, Caribbean and Great Lakes reserves advance knowledge and stewardship of estuaries and serve as a scientific foundation for coastal management decisions. This unique site-based program around the Nation contributes to a systemic research, education and training on the Nation's estuaries.

CSO greatly appreciates the support the subcommittee has provided in the past. Its support has assisted these programs to work collaboratively to protect our coasts, support coastal economies, and sustain our local communities. Without these competitive grant funds and key NOAA programs, States will not have the resources to help address local and regional coastal resilience needs and priorities, and leverage the Federal Government's support and expertise. Thank you for taking our requests into consideration as you move forward in the fiscal year 2015 appropriations process.

PREPARED STATEMENT OF THE COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION

The Columbia River Inter-Tribal Fish Commission (CRITFC) is pleased to share our views on the Department of Commerce's fiscal year 2015 budget and has identified the following funding needs:

\$38.2 million for Salmon Management Activities (\$11 million above the request) of which:

- \$26.6 million for the Columbia River Mitchell Act hatchery program to implement reforms of which \$6.7 million (or 25 percent of the enacted amount) is directed to the tribes to enhance supplementation (natural stock recovery) programs; and
- \$11.6 million for the Pacific Salmon Treaty Program, of which \$9.76 million is for the implementation of the 2009–2018 Agreement, and previous base programs; and \$1,844,000 is for the Chinook Salmon Agreement Implementation.

\$90 million for the Pacific Coastal Salmon Recovery Fund (\$40 million above the request) to support on-the-ground salmon restoration activities.

Background.—The Columbia River Inter-Tribal Fish Commission (CRITFC) was founded in 1977 by the four Columbia River treaty tribes: Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation of Oregon, Confederated Tribes and Bands of the Yakama Nation, and Nez Perce Tribe. CRITFC provides coordination and technical assistance to the tribes in regional, national and international efforts to protect and restore the fisheries and fish habitat.

In 1855, the United States entered into treaties with the four tribes.¹ The tribes' ceded millions of acres of our homelands to the U.S. and the U.S. pledged to honor our ancestral rights, including the right to fish at all usual and accustomed places. Unfortunately, a long history of hydroelectric development, habitat destruction and over-fishing by non-Indians brought the salmon resource to the edge of extinction with 12 salmon and steelhead trout populations in the Columbia River basin listed under the Endangered Species Act (ESA).

Today, the treaties form the bedrock of fisheries management. The CRITFC tribes are among the most successful fishery managers in the country leading restoration efforts and working with State, Federal and private entities. CRITFC's comprehensive plan, *Wy-Kan-Ush-Mi Wa-Kish-Wit*, outlines principles and objectives designed to halt the decline of salmon, lamprey and sturgeon populations and rebuild the fisheries to levels that support tribal ceremonial, subsistence and commercial harvests. To achieve these objectives, the plan emphasizes strategies that rely on natural production, healthy rivers and collaborative efforts.

Several key regional agreements were completed in 2008. The Columbia Basin Fish Accords set out parameters for management of the Federal Columbia River Power System for fish passage. New agreements in *U.S. v. Oregon* and the Pacific Salmon Commission established fishery management criteria for fisheries ranging from the Columbia River to Southeast Alaska. The *U.S. v. Oregon* agreement also contains provisions for hatchery management in the Columbia River Basin. The terms of all three agreements run through 2017. We have successfully secured other funds to support our efforts to implement these agreements, including funds from the Bonneville Power Administration (BPA), the Department of Interior, and the Southern Fund of the Pacific Salmon Treaty, to name just few. Continued Federal funding support is needed to accomplish the management objectives embodied in the agreements.

Columbia River (Mitchell Act) Hatchery Program.—Restoring Pacific salmon and providing for sustainable fisheries requires using the Columbia River Mitchell Act hatchery program to supplement naturally spawning stocks and populations. To accomplish this goal, \$26.6 million is requested for the tribal and State co-managers to jointly reform the Mitchell Act hatchery program. Of this amount, \$6.7 million, or 25 percent of enacted funding, will be made available to the Columbia River Treaty Tribes for supplementation (natural stock recovery) programs. The Mitchell Act program provides regional economic benefits. NOAA Fisheries estimates that the program generates about \$38 million in income and supports 870 jobs.

Since 1982, CRITFC has called for hatchery reform to meet recovery needs and meet mitigation obligations. In 1991, this subcommittee directed that "Mitchell Act hatcheries be operated in a manner so as to implement a program to release fish in the upper Columbia River basin above the Bonneville Dam to assist in the rebuilding of upriver naturally-spawning salmon runs."

¹Treaty with the Yakama Tribe, June 6, 1855, 12 Stat. 951; Treaty with the Tribes of Middle Oregon, June 25, 1855, 12 Stat. 963; Treaty with the Umatilla Tribe, June 9, 1855, 12 Stat. 945; Treaty with the Nez Perce Tribe, June 11, 1855, 12 Stat. 9.

Since 1991, we have made progress in increasing the upstream releases of salmon including Mitchell Act fish that have assisted the rebuilding and restoration of naturally-spawning upriver runs of chinook and coho. These efforts need to continue.

We now face the challenges of managing for salmon populations listed for protection under the ESA, while also meeting mitigation obligations. The Draft Environmental Impact Statement (DEIS) for operation of Columbia River basin hatcheries released by NOAA in 2010 illustrates the conundrum we face. While the DEIS, which assumes level funding for Mitchell Act hatcheries, points out the need for hatchery reform, the implementation scenarios for the proposed alternatives to the status quo all call for substantial reductions in hatchery releases. From the tribal perspective the proposed alternatives will not result in the delisting of salmon populations or meet mitigation obligations. Under the proposed alternatives the future is increased regulation under the ESA, resulting in more constrained fisheries along the west coast. The funding for the Mitchell Act program should be increased along with natural stock recovery program reform (supplementation) so that we can make progress towards ESA delisting. This would transition the Mitchell Act program to a much more effective mitigation program.

We support hatchery reform to aid in salmon recovery, while meeting mitigation obligations. The CRITFC tribes are leaders in designing and managing hatchery facilities to aid in salmon restoration and believe similar practices need to be implemented throughout the basin to reform current hatchery production efforts. Additional funding is necessary to reform Mitchell Act hatcheries to accomplish conservation and mitigation objectives. Years of inadequate funding have taken a toll resulting in deteriorating facilities that do not serve our objectives.

Evidence to Support Tribal Salmon Restoration Programs under the Mitchell Act.—The tribes' approach to salmon recovery is to put fish back in to the rivers and protect the watersheds where fish live. Scientific documentation of tribal supplementation success is available upon request. The evidence is seen by the increasing returns of salmon in the Columbia River Basin. Wild spring chinook salmon are returning in large numbers to the Umatilla, Yakima and Klickitat tributaries. Coho in the Clearwater River are now abundant after Snake River coho was once declared extinct. Fish are returning to the Columbia River Basin and it is built on more than 30 years of tribal projects.

Once considered for listing under the ESA, only 20,000 fall chinook returned to the Hanford Reach on the Columbia River in the early 1980's. This salmon run has been rebuilt through the implementation of the Vernita Bar agreement of the mid-1980s combined with a hatchery program that incorporated biologically appropriate salmon that spawn naturally upon their return to the spawning beds. Today, the Hanford Reach fall chinook run is one of the healthiest runs in the basin supporting fisheries in Alaska, Canada, and the mainstem Columbia River. In 2013, close to 700,000 Fall Chinook destined for the Hanford Reach entered the Columbia River, which was a record since the construction of Bonneville Dam. The predictions are for an even higher return this fall.

In the Snake River Basin, fall chinook has been brought back from the brink of extinction. Listed as threatened under the ESA, the estimated return of naturally-spawning Snake River fall chinook averaged 328 adults from 1986–1992. In 1994, fewer than 2,000 Snake River fall chinook returned to the Columbia River Basin. Thanks to the Nez Perce Tribe's modern supplementation program fall chinook are rebounding and the Snake River fall chinook is well on their way to recovery and ESA delisting. In 2013 about 56,000 fall chinook made it past Lower Granite Dam. Of those, approximately 21,000 were wild, twice the previous record for wild returns since the dam was constructed in 1975.

A Request for Review of Salmon Mass-Marking Programs.—CRITFC endeavors to secure a unified hatchery strategy among tribal, Federal and State co-managers. To that end, we seek to build hatchery programs using the best available science and supported by adequate, efficient budgets. A Congressional requirement, delivered through prior appropriations language, to visibly mark all salmon produced in federally funded hatcheries should be reconsidered. We have requested that Federal mass-marking requirements, and correlated funding, be reviewed for compatibility with our overall objective of ESA delisting and with prevailing laws and agreements: *U.S. v Oregon*, Pacific Salmon Treaty and the Columbia Basin Fish Accords.²

Salmon managers should be provided the latitude to make case-by-case decisions whether to mark fish and, if so, in the appropriate percentages.

²Letter from Bruce Jim, Chairman, Columbia River Inter-Tribal Fish Commission to U.S. House of Representatives Chairmen Frank Wolf, Mike Simpson and Doc Hastings, July 11, 2011.

Pacific Salmon Treaty Program.—CRITFC supports the U.S. Section recommendation of \$11.6 million for Pacific Salmon Treaty implementation. Of this amount, \$9.76 million is for the Pacific Salmon Treaty base program with Alaska, Oregon, Idaho, Washington, and NOAA to share as described in the U.S. Section of the Pacific Salmon Commission's Budget Justification. In addition, we support \$1.9 million as first provided in 1997 to carry out necessary research and management activities to implement the abundance based management approach of the Chinook Chapter to the Treaty. Costs of the programs conducted by State agencies to fulfill national commitments created by the treaty are substantially greater than the funding provided in the NOAA budget. State agencies supplement the Federal appropriation from other sources including: State and Federal grants, and the Pacific Coastal Salmon Recovery Fund, to the extent those sources are available.

Pacific Coastal Salmon Recovery Program (PCSRF)/Watershed Restoration.—Funding has been sought after by the State of Alaska, the Pacific Northwest States, and the treaty tribes since the renewal of the Pacific Salmon Treaty in 1995. This would serve critical unmet needs for the conservation and restoration of salmon stocks shared in these tribal, State, and international fisheries. The PCSRF program was developed in 2000 to contribute to the shared effort in accomplishing this goal. We recommend restoring the PCSRF fiscal year 2015 funding level to \$90 million. Long-term economic benefits can be achieved by making PCSRF investments on the ground to rebuild sustainable, harvestable salmon populations into the future.

The State and tribal co-managers have responded to concerns raised by Congress regarding accountability and performance standards to evaluate and monitor the success of this coast wide program. The co-managers have developed an extensive matrix of performance standards to address these concerns, which includes the use of monitoring protocols to systematically track current and future projects basin-wide. Tribally sponsored watershed projects are based on the best science, are competently implemented and adequately monitored, and address the limiting factors affecting salmon restoration. Projects undertaken by the tribes are consistent with CRITFC's salmon restoration plan and the programmatic areas identified by Congress.

In summary, the CRITFC and its four member tribes have developed the capacity and infrastructure to lead in restoring and rebuilding salmon populations of the Columbia Basin. Our collective efforts protect our treaty reserved fishing rights and we also partner with the non-Indian community to provide healthy, harvestable salmon populations for all citizens to enjoy. This is a time when increased effort and participation are demanded of all of us and we ask for your continued support of a coordinated, comprehensive effort to restore the shared salmon resource of the Columbia and Snake River Basins. We will be pleased to provide any additional information that this subcommittee may require.

PREPARED STATEMENT OF THE CONSORTIUM FOR OCEAN LEADERSHIP

On behalf of the Consortium for Ocean Leadership, I appreciate the opportunity to discuss the fiscal year 2015 Federal science budget for the National Science Foundation (NSF), the National Oceanic and Atmospheric Administration (NOAA) and the National Aeronautics and Space Administration (NASA). Ocean Leadership represents 90 of the Nation's leading oceanographic research and education institutions and also manages several ocean research and education programs in the areas of scientific ocean drilling, ocean observing, oil spills, and ocean partnerships. We respectfully request \$7.5 billion for the NSF; \$1.9 billion for Earth Sciences at NASA; and \$5.6 billion for NOAA.

As Congress prioritizes Federal investments in the face of constrained budgets, it is important to recognize and maintain support for basic research as a core Federal responsibility. Increasing this investment is a priority given the shift to a science and technology (S&T) based economy whose foundation is built on scientific advances, both within specific disciplines as well as across disciplines. The U.S. dominance in S&T is being challenged by accelerated investment by other nations, as evidenced by Battelle's recent research and development (R&D) Global Forecast, which states: "At the current rates of growth and investment, China's total funding of R&D is expected to surpass that of the U.S. by about 2022."¹

¹Battelle and R&D Magazine, December 2013. http://www.battelle.org/docs/tp/2014_global_rd_funding_forecast.pdf?sfvrsn=4.

THE ROLE OF OCEAN SCIENCE

Recent hypotheses suggest that the extreme weather events we have had this past year may be attributable to a persistent shift in the jet stream due to a rapidly melting polar region as well as a warmer North Pacific Ocean. If this is the case, ice storms in Mobile, Alabama or monsoon-like rain events in Boulder, Colorado, may become more frequent, along with their significant economic costs. Unfortunately, as the demand for more and better data and information to understand ocean and atmospheric trends increases, we are instead losing our capabilities to collect data at sea and from space to build more capable and accurate long-term forecasts. For instance, the inability to service the buoys comprising the TAO Array (Tropical Atmosphere Ocean project in the equatorial Pacific) has resulted in a degradation of the data return rate to just 40 percent capacity from an optimally operating system.² This situation greatly reduces our ability to accurately forecast El Niño and La Niña strengths and thus risks proper preparation to deal with episodes of droughts and flooding.

Given that the ocean absorbs, stores and transfers most of the heat (and a high percentage of the carbon) on our planet, the ability to understand, forecast and prepare for extreme weather events requires investments in basic research to better understand air-ice-sea interactions as well as observations of the physical environment from space, land and sea. Without this basic knowledge and prediction capabilities on regional and seasonal scales, we are essentially flying blind in terms of managing resources (e.g. agriculture, fisheries, freshwater) and protecting public health. There are many major natural threats facing our Nation and significant challenges ahead in understanding, forecasting and mitigating them, all of which require significant financial resources. We believe that our appropriations requests would enable our Nation to maintain the assets and capabilities necessary to better understand the physical, chemical, geological and biological changes to the natural environment and use this information to help Congress, State and local governments, businesses and private individuals make informed and fiscally responsible economic and national security, public health and safety, and resource management decisions.

NSF BASIC RESEARCH

The National Science Foundation (NSF) is our top funding priority as it is the premier Federal agency tasked with supporting basic research, which underpins all future scientific advances. As you know, NSF is the only Federal agency with the mission of supporting basic research, and has been a primary force in providing support for discoveries that have driven our Nation's economy through innovation. Historically, Congress has appropriated top line numbers for the agency and has refrained from directing the course of the agency's research agenda or setting science or infrastructure priorities for the agency. We hope that this policy will continue so the Foundation can continue to make decisions based on the highest quality peer reviewed science, rather than politics.

Given the tremendous recent impact that natural hazards have had on our Nation's economy and public welfare, we believe that investing in the geosciences is critical to advance our knowledge of the physical world, while social and behavioral sciences can improve our ability to understand and communicate key scientific findings and risks to the public and policymakers, who must deal with a rapidly changing planet. We hope that NSF can continue to fund the best minds in the Nation through competitive research grants, while mission agencies such as NOAA and NASA can support applied research and observational requirements to ensure our Nation has the intellectual capacity to develop and deal with the next generation of challenges. Thus, we request that Congress appropriate \$140 million in additional funding for the "Research and Related Accounts" to at least match anticipated inflationary costs, but preferably above this level to maintain a positive trajectory enhancing NSF capacity to support its research mission.

NOAA RESEARCH AND OBSERVATIONS

The National Oceanic and Atmospheric Administration (NOAA) requires timely, accurate, and sensitive observations of the planet to meet its many missions and mandates. Given the austere budget environment, we believe that NOAA can better accomplish its scientific requirements in a more effective way through partnerships

²El Niño monitoring system in failure mode, U.S. budget woes cripple a key mooring array in the tropical Pacific Ocean. Jeff Tollefson. Nature News, January 23, 2014. <http://www.nature.com/news/el-niño-monitoring-system-in-failure-mode-1.14582>.

with the extramural academic and industrial communities, rather than relying solely on their own internal scientific capability. The majority of scientific research expertise in areas such as climate, ocean acidification, ocean exploration, instrument development, data dissemination and fisheries management resides in the academic and industrial sectors. A greater commitment to extramural competitive peer-review grant opportunities to answer the key questions necessary to assess trends, make forecasts, and manage resources in a changing environment would improve efficiency and extend NOAA's access to the best minds in the Nation.

We remain concerned about the Nation's earth observing satellite programs and the ability to maintain continuity of long-term data sets. We encourage NOAA to follow the NESDIS Independent Review Team's (IRT) recommendations for procurement models for missions beyond J2 that will not only reduce costs but also mitigate against data gaps. Implementing all the missions as an integrated program could save the agency tens of millions of dollars. These savings could help address other needs, such as recapitalization of the oceanographic fleet to help service the TAO Array, or supporting a more robust ocean exploration program. Ultimately, we need the polar observing system to be more resilient and more capable, which requires a more integrated approach to weather and climate research, monitoring and modeling. Moving NOAA's climate sensors to NASA without the resources to support their construction and operation defeats this purpose. Consequently, we hope you will continue your close oversight of the Federal Earth observing programs to help ensure that satellite missions can be cost-efficient, reliable, and effective.

Of course, the ocean also impacts life beyond weather, climate and extreme events. The *Deepwater Horizon* oil spill was a tragedy with loss of life, economic impacts and long-term ecological implications for the Gulf region. The fact that it took so long to identify and track the location of the massive subsurface oil plume in the water column or forecast its trajectory highlights the significant shortcomings of the existing ocean and coastal observing systems. Consequently, we need to make sure that we are better prepared for the next spill, especially given offshore oil exploration in the Arctic and now proposed for the Atlantic coast. Ideally, there should be significant coordination between NOAA and the National Academies of Sciences (NAS) with regards to the use of criminal and civil settlement funds and fines. We have a unique opportunity to build a sustainable ocean and coastal observing system that will better enable the Gulf region to identify and prepare for future problems, such as oil spills, red tides, and hypoxic events, while also better managing their marine living resources. I hope this opportunity is not lost given the significant funds that will flow into the region.

We are disheartened by the administration's extremely low funding request for NOAA's Education programs, including the elimination of the competitive program, which in the past has supported successful initiatives such as the National Ocean Sciences Bowl (NOSB). For the last 16 years, NOSB has exposed 26,000 students to a field of study not commonly offered in high school, which enhances student understanding of all major areas of science, technology, engineering and mathematics. We greatly appreciate your historical support for education programs at the mission agencies, and we hope that the administration will take a more transparent and deliberative planned approach to improving our Nation's STEM education programs in the future.

NASA EARTH SCIENCE RESEARCH AND MISSIONS

We are very concerned with the administration's proposal to cut Earth Science funding at the National Aeronautics and Space Administration's (NASA), particularly at a time when NASA is supporting several new Earth observing missions as well as providing unprecedented access to their archives of Earth data. NASA has been responsive to the 2007 "Decadal Survey," but a flat budget, as well as increased mission responsibilities, has delayed many critical missions. While we support NASA taking on additional responsibilities for developing climate sensors from NOAA, we believe that this obligation should be accompanied with adequate financial resources. NASA has shown itself to be an effective partner with other agencies, such as with the USGS and their Landsat-8 mission, and with NOAA and the NPP-Suomi satellite. Moreover, its Venture class missions are providing flight opportunities for the next generation of scientists and engineers. We also support two NASA satellite missions, Surface Water Ocean Topography (SWOT) and Pre-Aerosol, Clouds, and ocean Ecosystem (PACE), which are particularly important to the oceans community and are tentatively scheduled for launch by 2020. NASA supports the only truly global view of the Earth, so it is critical to support its Earth science missions and research at a time when we see such unprecedented change to the physical environment of our planet.

Madame Chair and members of the subcommittee, I greatly appreciate the opportunity to share our recommendations, and I encourage you to continue your long-standing bipartisan support for science funding in the fiscal year 2015 budget and into the future.

Below is a list of the institutions that are represented by the Consortium for Ocean Leadership.

<i>Alabama</i>	<i>Hawaii</i>
Dauphin Island Sea Lab	University of Hawaii
<i>Alaska</i>	<i>Illinois</i>
University of Alaska Fairbanks Alaska Ocean Observing System North Pacific Research Board	John G. Shedd Aquarium
<i>California</i>	<i>Louisiana</i>
Bodega Marine Lab Monterey Bay Aquarium Research Institute Moss Landing Marine Laboratory Naval Postgraduate School Stanford University University of California, Santa Barbara University of California, Santa Cruz University of California, San Diego (Scripps Institution of Oceanography) University of Southern California Aquarium of the Pacific Hubbs-SeaWorld Research Institute Romberg Tiburon Center for Environmental Studies Esri L-3 MariPro, Inc. Liquid Robotics, Inc. Teledyne RD Instruments	Louisiana Universities Marine Consortium Louisiana State University
<i>Colorado</i>	<i>Maine</i>
Cooperative Institute for Research in Environmental Sciences	Bigelow Laboratory for Ocean Sciences University of Maine The IOOS Association
<i>Connecticut</i>	<i>Maryland</i>
University of Connecticut Mystic Aquarium & Institute for Exploration	University of Maryland Center for Environmental Science Johns Hopkins University Marine Technology Society National Aquarium
<i>Delaware</i>	<i>Massachusetts</i>
University of Delaware Mid-Atlantic Regional Association Coastal Ocean Observing System	Massachusetts Institute of Technology University of Massachusetts, Dartmouth University of Massachusetts, Lowell Woods Hole Oceanographic Institution Battelle
<i>Florida</i>	<i>Michigan</i>
Florida State University Harbor Branch Oceanographic Institute at FAU University of Florida University of Miami University of South Florida Earth2Ocean, Inc. Florida Institute of Oceanography Nova Southeastern University	University of Michigan
<i>Georgia</i>	<i>Mississippi</i>
Skidaway Institute of Oceanography of the University of Georgia Savannah State University	Mississippi State University University of Mississippi University of Southern Mississippi
	<i>Nebraska</i>
	University of Nebraska, Lincoln
	<i>New Hampshire</i>
	University of New Hampshire
	<i>New Jersey</i>
	Rutgers University
	<i>New York</i>
	Columbia University (LDEO) Stony Brook University
	<i>North Carolina</i>
	Duke University Marine Laboratory East Carolina University University of North Carolina, Chapel Hill University of North Carolina, Wilmington North Carolina State University

<i>Oregon</i>	CARIS, USA
Oregon State University	SAIC
<i>Pennsylvania</i>	<i>Washington</i>
Pennsylvania State University	University of Washington
	Sea-Bird Scientific
<i>Rhode Island</i>	<i>Washington, DC</i>
University of Rhode Island	Southeastern Universities Research Association
<i>South Carolina</i>	<i>Wisconsin</i>
Belle W. Baruch Institute for Marine and Coastal Sciences	University of Wisconsin-Milwaukee
South Carolina Sea Grant Consortium	Great Lakes WATER Institute
<i>Texas</i>	<i>Australia</i>
Harte Research Institute	Institute for Marine and Antarctic Studies (IMAS) at the University of Tasmania
Texas A&M University	
University of Texas, Austin	
Fugro	
Sonardyne, Inc.	
<i>Virginia</i>	<i>Bermuda</i>
College of William and Mary (VIMS)	Bermuda Institute of Ocean Sciences (BIOS)
Old Dominion University	
CNA	<i>Canada</i>
Institute for Global Environmental Strategies	Dalhousie University
U.S. Arctic Research Commission	University of Victoria

PREPARED STATEMENT OF THE CONSORTIUM OF SOCIAL SCIENCE ASSOCIATIONS

On behalf of the Consortium of Social Science Associations (COSSA), I am pleased to offer this written testimony to the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies for inclusion in the official committee record. For fiscal year 2015, COSSA urges the subcommittee to appropriate \$7.5 billion for the National Science Foundation (NSF), \$47.5 million for the National Institute of Justice (NIJ), \$55.4 million for the Bureau of Justice Statistics (BJS), and \$107 million for the Bureau of Economic Analysis (BEA).

COSSA is proud to serve as a united voice for the social and behavioral sciences, bridging the academic research community with Federal policymakers. Its membership consists of more than 100 professional associations, scientific societies, universities, and research centers and institutes, representing thousands of scientists working in industry, government, and academia.

NATIONAL SCIENCE FOUNDATION

First, I wish to thank the subcommittee for its longstanding support for Federal science agencies. Despite the tough, ongoing fiscal challenges, the subcommittee has remained vigilant in its efforts to ensure adequate funding for basic research, particularly at the National Science Foundation. Thank you.

COSSA joins the broader scientific community and the 21 Senators who signed the April 11 letter to the subcommittee in support of \$7.5 billion for NSF in fiscal year 2015, an increase of 4.6 percent. This amount would return NSF to its fiscal year 2010 funding level when adjusting for inflation and would allow the agency to recover some of the purchasing power lost in recent years due to sequestration and caps on discretionary spending. The amount would also attempt to put NSF back on track with the vision of the America COMPETES Reauthorization Act of 2010, which authorized NSF at \$7.4 billion in fiscal year 2011, \$7.8 billion in fiscal year 2012, and \$8.3 billion in fiscal year 2013. If the U.S. is to maintain its scientific competitiveness on the global stage, we as a nation must continue to prioritize investments in science and technology and not abandon the aspirations set forth in the original America COMPETES Act of 2007 and its reauthorization in 2011.

The U.S. scientific enterprise must remain insulated from political and ideological pressure if we are to encourage the most innovative science. As you move through the appropriations process this year, COSSA urges you to discourage and object to amendments that would defund or otherwise compromise specific research areas or

programs at NSF, as we saw with the political science amendment in fiscal year 2013. At a time when we should be investing in our knowledge economy and doing all we can to encourage a diverse scientific workforce, such efforts would instead have a chilling effect, discouraging the next generation of researchers to embark on science careers.

Unfortunately, some recent efforts in the House seek to further set back the U.S. scientific enterprise. COSSA is deeply concerned about the impacts the Frontiers in Innovation, Research, Science and Technology Act (H.R. 4186), or FIRST Act, would have on NSF, the scientific community overall, and American innovation and intellectual competitiveness. Not only does the FIRST Act lack vision for the U.S. scientific enterprise by authorizing levels for NSF that would cut funding to the agency in terms of real dollars, it would also degrade NSF's gold-standard merit review process by seeking to micromanage the agency's award-making process. Regrettably, the legislation serves as a soapbox for lawmakers wishing to hurl ideological attacks on specific research areas, such as social and behavioral science or climate science. The inclusion of specific authorization levels for NSF's individual science directorates would set a dangerous precedent by allowing Congress to legislate what qualifies as meritorious science, as opposed to continuing to rely on a process that has served this Nation well; that is, entrusting qualified experts to make such determinations. It would also place scientific disciplines (i.e. biology, engineering, chemistry, social science, etc.) in direct competition with one another for scarce resources, thereby discouraging interdisciplinary science, which is becoming increasingly necessary for answering complex societal challenges.

Equally distressing are the attempts to single out the Social, Behavioral and Economic Sciences (SBE) Directorate. The shortsightedness of critics of social and behavioral science research is disappointing. Publicly holding up individual research grants for ridicule based solely on their titles—research projects that a distinguished panel of scientific peers has determined meritorious—misleads the American public by asserting that taxpayer funding is being wasted without fully understanding the projects, their intent, and the benefit to society and/or the progress of science.

While we understand that the FIRST Act is an authorization bill and currently has no legal bearing on the fiscal year 2015 appropriations process, we are nonetheless concerned by these efforts in the House and any impact they might have on Senators looking to further target social and behavioral science funding at NSF. COSSA is hopeful that the Senate will reject the FIRST Act should it pass the House this year, and object to additional efforts to defund or devalue these NSF programs that have proven their value to the U.S. economy, national security, and the health of our citizens.

As the Senate negotiates the CJS Appropriations bill this year, please consider the value of the social and behavioral sciences in helping to answer questions of national importance, such as how to convince a community in the path of a tornado to seek cover, or statistical analyses that help local governments understand crime patterns, among others. Without this science, and without an understanding of the fundamental nature of who we are, policy-making on major national issues will not be based on evidence and billions of dollars will be wasted.

Below are just a few examples¹ of impactful social and behavioral science:

- Research supported by NSF has provided the Federal Communications Commission (FCC) with its current system for apportioning the airwaves via a fruitful, practical application of game theory and experimental economics. Since their inception in 1994, FCC “spectrum auctions” have netted over \$60 billion in revenue for the Federal Government. The U.S. system of partitioning airwaves is now emulated in several other countries around the world, resulting in total worldwide revenues in excess of \$200 billion.
- Researchers at Indiana University, Drexel University, and Arizona State University developed spatial models to help manage the location of sex offenders. Their research addressed concerns regarding the impact of sex offender residency laws on a community, considering important factors such as whether residency restrictions lead to high concentrations of offenders in specific areas, distribute the risk across a community equitably, and keep sex offenders from living near minors. Improving the development and evaluation of sex offender residency policies in advance of any legislation allows public officials the opportunity to consider the resulting distribution of offenders in terms of local residents, better meeting the needs of communities.

¹Bringing People Into Focus: How Social, Behavioral and Economic Research Addresses National Challenges, National Science Foundation (NSF 13–62).

—Researchers at Washington University in St. Louis investigated emotion recognition using nonverbal cues such as facial expressions, vocal tones, and body language. Based on this research, the Army Research Institute now incorporates education on nonverbal communication into soldier training, thereby assisting troops in understanding cross-cultural, nonverbal communication with non-English speaking citizens with whom they interact overseas. Thus, this research has the potential to provide human solutions in military situations. It has been demonstrated that enhancing troops' interpersonal skills can enable them to anticipate and diffuse conflict, as well as facilitate cooperation, negotiation and compromise.

NATIONAL INSTITUTE OF JUSTICE AND BUREAU OF JUSTICE STATISTICS
U.S. DEPARTMENT OF JUSTICE

COSSA urges the subcommittee to appropriate \$47.5 million for the National Institute of Justice (NIJ) and \$55.4 million for the Bureau of Justice Statistics (BJS) within the U.S. Department of Justice (DOJ). These levels are equal to the President's fiscal year 2015 budget request. Taken together—roughly \$100 million—this modest investment represents the only source of Federal research dollars committed to enhancing our understanding of crime and the criminal justice system.

As the research arm of DOJ, NIJ plays a critical role in helping us understand and implement science-based strategies for crime prevention and control. The President seeks additional investment for the Comprehensive School Safety Initiative in fiscal year 2015 as part of the Opportunity, Growth, and Security Initiative; the initiative received \$75 million in fiscal year 2014. COSSA urges the subcommittee to continue its support for this critical activity, the research from which will help ensure that policies and investments made at U.S. schools to address the safety of students, teachers and administrators will be evidence-based.

BJS' national data collections play an important role in providing statistical evidence needed for criminal justice policy decision makers. In particular, these programs provide the critical data infrastructure supporting the administration's commitment to focus on data-driven, evidence- and information-based, "smart on crime" approaches. COSSA supports the request for an additional \$1 million for the National Survey of Public Defenders and an additional \$1.5 million for the National Public Defenders Reporting Program. Further, we endorse the administration's efforts to "explore the feasibility of statistical collections in important topical priority areas, including: recidivism and reentry, prosecution and adjudication, criminal justice data improvements and victimization statistics."

Increased investment in criminal justice science is needed to ensure future policies and decisions are evidence-based and to contain escalating costs associated with public safety. COSSA applauds NIJ's increased efforts to disseminate research results to practitioners, putting it in the hands of those who need it.

BUREAU OF ECONOMIC ANALYSIS
DEPARTMENT OF COMMERCE

COSSA urges the subcommittee to appropriate \$107 million for the Bureau of Economic Analysis (BEA) within the U.S. Department of Commerce. This is equal to the amount included in the fiscal year 2015 budget request. BEA plays a critical role in helping the Nation understand our economy through the National Income and Product Accounts, which provides economic data at the national as well as industry levels.

Further, BEA proposes a new \$1.9 billion initiative in fiscal year 2015, "Big Data for Small Business." This would allow BEA to create a new Small Business Gross Domestic Product to track the health of the U.S. small business sector, thereby addressing the need for more public data relating to small businesses. COSSA supports this activity.

Thank you for the opportunity to express these views on behalf of the social and behavioral science community. Please do not hesitate to contact me should you require additional information.

PREPARED STATEMENT OF FORD "BUD" CROSS, PH.D. NATIONAL OCEANOGRAPHIC AND ATMOSPHERIC ADMINISTRATION (NOAA) (RETIRED)

This testimony addresses the portion of the National Oceanic and Atmospheric Administration's (NOAA's) fiscal year 2015 Budget that proposes to close their research laboratory in Beaufort, North Carolina, where I served as Laboratory Director from 1985–2000.

The purpose of this testimony is to enter my strong objection to the proposed closure of NOAA's Beaufort Laboratory, North Carolina by NOAA's National Ocean Service (NOS). Having worked at the Lab for 33 years that included serving as Laboratory Director for 15 years, I would like to provide you with my assessment of the validity of the NOAA justification for closing the Beaufort Laboratory. (I still interact with Lab staff and visit the lab frequently.)

NOAA's Beaufort Laboratory is part of the NOS National Centers for Coastal Ocean Science (NCCOS) and the Lab's official name is the National Center for Fisheries and Habitat Research. In addition to NOS (42), staff from the National Marine Fisheries Service (NMFS) (51), and the State of North Carolina (8) share the Beaufort facility. NCCOS also has research Centers or Laboratories in Charleston, S.C., Oxford, Maryland, Kasitsna Bay, Alaska, and two Centers at NOAA Headquarters in Silver Spring, Maryland. In recent years, NOAA has tried unsuccessfully to close two other NOS laboratories, Oxford, MD, and Kasitsna Bay, Alaska.

NOS claims that about \$58 million is needed to upgrade the Beaufort facility. This estimate is based on an outdated (2010), and somewhat inaccurate, facilities assessment report that resulted from a site visit in 2009. Since 2000, about \$14.5 million has been spent to upgrade many structural deficiencies, and two new buildings were constructed (\$8 million). Also, almost \$1 million of Hurricane Sandy funds currently are being used to further upgrade the facility for storm protection, and the State of North Carolina is spending about \$500,000 for storm water improvements as well. That's over \$23 million in upgrades in less than 15 years.

Why were these upgrades not taken into account when the fiscal year 2015 budget was submitted? In my opinion, the argument that the Beaufort facility is in poor shape and an unsafe work environment is not accurate. The figure of \$58 million to repair the facility does not take recent upgrades into account, and does not reflect a more recent informal inspection of the Lab where "no structural issues" were found. Thus, the Beaufort facility is not in a rundown condition, nor is it an unsafe place to work. A visit to the facility will bear these points out. Most of funds currently being identified as needed to repair the facility were actually identified to replace older buildings with state-of-the-art facilities in order to allow the Beaufort Lab to take full advantage of its location.

IMPACT ON NCCOS PROGRAMS

If the Laboratory is closed, the impact on the NCCOS research there will be significant, as much of it must be conducted in a laboratory and field setting. Priority research in the following areas would be disrupted or eliminated: harmful algal blooms, coastal toxic metal pollution, sea level rise, invasive species (lionfish), mapping of seagrass beds, and coastal planning for sustainable marine aquaculture. (Yet, NOS/NCCOS is requesting an additional \$4 million in fiscal year 2015 for similar work.) Several of the NCCOS scientists at Beaufort have received national and international awards for research, and one received the NOAA Lifetime Scientific Achievement Award. Virtually all of this research is conducted cooperatively with universities, State agencies, other Federal agencies, or other NOAA programs. Again, much of this research cannot be conducted away from the coast.

Is this research of low priority to NOAA/NOS/NCCOS?

IMPACT ON NMFS PROGRAMS

Since 1899, when the Beaufort Laboratory was created by Congress, until 2000, the Laboratory belonged to the National Marine Fisheries Service, or its precursor agencies. In the late 1990's, the Administrator of NOAA directed the Assistant Administrator (AA) for NOS to develop a research capability within NOS. To satisfy that request, five field laboratories were transferred in 2000 from NMFS to NOS, including Beaufort. However, NMFS fisheries and protected species research remained at the Lab. Their contribution to O&M costs is based on the ratio of NOS to NMFS staff. The NMFS fisheries and protected species research would be highly impacted if the Lab closed. Much of this research is used by fisheries and protected species managers, and primarily requires the coastal Lab.

FISHERIES STOCK ASSESSMENTS

The primary fisheries research at the Beaufort Lab deals with stock assessments of more than 100 species of reef fish (mainly snappers and groupers) that exist between Cape Hatteras and the Florida Keys. The Lab monitors the catch of about 100 head boats along the southeast Atlantic coast. They then combine these data with estimates of the commercial catch and other recreational catch to produce an estimate of the total fishing effort on the populations of reef fish. These data are then coupled with economic information to estimate the economic effect of various

management scenarios. This information is then provided to the South Atlantic Fisheries Management Council who has the responsibility to manage fisheries in the exclusive economic zone (EEZ).

The South Atlantic Fishery Management Council depends on the Beaufort Laboratory for providing the science upon which these management recommendations are based for the reef fish fishery. Attempts to transfer this staff to another location will fracture it, disrupt the flow of information to the South Atlantic Council, and result in an unnecessary expenditure of relocation funds.

MENHADEN

The Beaufort Laboratory is the only entity that monitors the catch of the Atlantic menhaden fishery (since 1955), and the Gulf of Mexico menhaden fishery (since 1964). Stock assessments are made periodically, and the information is provided to the Atlantic States Marine Fishery Commission and the Gulf States Marine Fisheries Commission for management purposes. Similar to reef fish, the unnecessary disruption of this research will be costly. It could result in the loss of the longest and most continuous data bases in the U.S., and essential management information to the Commissions would be delayed at best.

PROTECTED SPECIES

The unique geological location of the NOAA's Beaufort Laboratory lends itself to one of the best locations along the Atlantic coast to conduct research on marine mammals and sea turtles. This is due to the unique mix of estuarine habitats that exists in coastal North Carolina and the opportunity to interact directly with commercial fishermen. The objectives of this research are to better understand the direct and indirect effects of fisheries, climate change, and other environmental factors in support of the conservation and recovery of these species as mandated by Federal law. This research cannot be done effectively from a non-coastal location or out of North Carolina.

NOAA SENTINEL SITE COOPERATIVE ([HTTP://OCEANSERVICE.NOAA.GOV/SENTINELSITES/NORTH-CAROLINA.HTML](http://oceanservice.noaa.gov/sentinel/sites/north-carolina.html)) ([HTTP://OCEANSERVICE.NOAA.GOV/SENTINELSITES/](http://oceanservice.noaa.gov/sentinel/sites/))

NOAA's Beaufort Laboratory is one of only five such sites that NOAA has established in the United States. These sites were established to leverage existing research and monitoring resources to ensure resilient communities and coastal ecosystems in the face of changing environmental conditions. The focus of the North Carolina site is sea level change and coastal inundation adaptation and planning. About 20 partners (Federal, State, and other organizations) are involved in this effort in which the NOAA Lab is a key player. For more information on this Program, see the links given above. Why would NOAA pull the Beaufort Lab out of one of only five sentinel sites in the Nation?

NORTH CAROLINA MARINE SCIENCE AND EDUCATION PARTNERSHIP ([WWW.NCMSEP.COM](http://www.ncmsep.com))

The central portion of the North Carolina coast has been a focus of marine research for well over 100 years. After the establishment of the Beaufort Lab in 1899, the Duke Marine Laboratory and the University of North Carolina's Institute were established in the late 1940's and the North Carolina State University Marine Lab (CMAST) was established in the 1990's, all within five miles of each other. This concentration of labs has resulted in a center of expertise in coastal North Carolina of international and national significance. In 2002, the Carteret County Economic Development Council convened a meeting of the leaders of marine institutions and organizations and community leaders in the county. From that meeting, the North Carolina Marine Science and Education Partnership (MSEP) was formed. Currently, there are 18 organizations that comprise MSEP, including the Carteret Country Public School System. Members of MSEP meet regularly to discuss ways to better cooperate on research, education, and outreach projects. For example, MSEP developed and is running a Coastal Marine Science Competition for 13-18 year old students in the multi-County region (<https://www.sites.google.com/site/msepcompetition/>). For NOAA to eliminate the Beaufort Laboratory from such an organization so closely tied to their overall missions is puzzling at best.

SUMMARY

1. In my opinion, the justification for closing NOAA's Beaufort Laboratory is weak. The facility report is not up to date, and not entirely accurate. The \$58 million price tag includes replacing the two story research building that would be beneficial but the laboratory is operational and safe without it. Also, NOAA

- has constructed a new maintenance building and a \$7 million building to house administrative staff, the library and the NEERS staff, and has spent an additional \$14 million in facility upgrades, since 2000. I strongly urge that a site visit be made so Congress can be assured that the Lab is functional and safe.
2. The closing of the Lab will destroy critical masses in habitat, fisheries, and protected species research. NOAA argues that the scientists and support staff will be moved to other locations, but there is no plan. Those scientists and staff who chose not to move will be rified. There is no way NOAA can successfully move any part of the staff in its entirety to maintain any semblance of a critical mass in any one of the three research areas. The result will be a major disruption of research that is of high priority to NOAA, and again, not for a valid reason.
 3. NOAA prides itself in its capacity to reach out and interact with constituents and partners. The Beaufort Laboratory is the epitome of those relationships. A high percentage of the research conducted there is with collaborators. Graduate students and post-doctoral students from various universities, sponsored by Lab staff, conduct their research at the Laboratory. As described above, the Lab is an integral part of the North Carolina Marine Science and Educational Partnership and NOAA Sentinel Site project. Is it in the best interests of NOAA to walk away from these relationships?

RECOMMENDATIONS

I would like to make the following three recommendations to the subcommittee:

1. For reasons given above, please do not close NOAA's Beaufort Laboratory. The level of unnecessary disruption to research, partnerships, and personal lives is far too great for the questionable justification given.
2. If the Laboratory remains in NOS, it should have its own line item in the NOS/NCCOS budget. This will prevent NOS/NCCOS from continually bleeding the Lab of money and positions.
3. And my most preferred recommendation is to move the Beaufort Laboratory back to the National Marine Fisheries Service, where it spent its first 100 years. I cannot believe that NMFS agreed up front to this proposed closure. The impact to their programs is too great. It would be interesting to know if a paper trail exists between NOS and NMFS on this matter.

PREPARED STATEMENT OF MICHELLE DUVAL, MOREHEAD CITY, NORTH CAROLINA

As a resident of Carteret County and a fisheries management professional engaged at both the State and Federal levels, I want to express my opposition to the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Lab. The lab has a rich history of conducting a wide variety marine science research. There are significant collaborations that occur between the Beaufort Lab and academic institutions in the area that inform the science used for management. Closure of the Beaufort Lab would eliminate those collaborations, simply due to the fact that those researchers will not be in close proximity to one another. Having received my doctorate in 1997 from the Duke Marine Lab, which shares Pivers Island with the NOAA Beaufort Lab, I have witnessed these collaborations firsthand. However, I wanted to express a few very specific concerns regarding fisheries science and long term fiscal impacts of the lab closure that merit consideration. (Please note that I am not an employee of the Beaufort Lab).

1. *Impacts to fishery-independent surveys.*—Most of the federally-managed fish species in the southeast are considered “data poor” when compared to other regions, particularly the snapper grouper complex. Information collected through fishery-independent surveys (i.e., surveys that do not rely on commercial and recreational catches) is critical to filling in knowledge gaps regarding species distribution, abundance, longevity and reproduction—essential elements for a stock assessment. There is only one fishery-independent survey for snapper grouper species in the southeast, and its geographic range has always been limited by available resources. Only since 2010 have the necessary staff resources been allocated to the Beaufort Lab to expand the northern range of this survey from just south of Cape Lookout, North Carolina north to Cape Hatteras, North Carolina (as well as add a video monitoring component to the survey). Closing the lab and relocating the staff would set this program back substantially through survey interruption and re-hiring of staff with the appropriate skills to replace those unable to relocate.

2. *Impacts to fisheries stock assessments.*—It has taken 10 years to build the necessary analytical capacity at the Beaufort Lab to conduct much-needed stock assessments for commercially and recreationally important fishes in the southeast. These scientists work together as a team in completing assessments; they also work side by side with the survey scientists mentioned above, as well as the scientists who process the biological samples collected to provide information critical for the assessments. The ability for the assessment team to interact directly with the other teams of scientists collecting the data is invaluable. Closing the Beaufort Lab and relocating personnel would have significant negative impacts on the efficiency and productivity of the process, at a time when the demands have never been greater. It will not be possible to relocate all personnel to a single location, and the fact is that not all personnel will be able to relocate due to spousal commitments, childcare obligations, etc. The existing team of assessment scientists are nationally and internationally respected and not easily replaced. Loss of specialized skill sets that have taken years to acquire is a very real risk.
3. *Downstream fiscal impacts.*—Closure of the lab and relocation of staff will have significant downstream fiscal impacts that do not appear to have been taken into consideration. The development of stock assessments in the southeast is a very collaborative process, involving the assessment team, other State and Federal agency scientists, and fishermen coming together in person to review and discuss data being considered for an assessment. Moving the staff from the Beaufort Lab to other locations (such as the NOAA lab in Pascagoula) will incur additional travel costs in the form of bringing those staff back into the region for stock assessments, (or transporting all other participants to where the assessment team is located). Similarly, there will be additional travel costs to bring fishery independent survey staff back to cruise deployment locations; this would likely reduce the magnitude of future sampling efforts at a time when they need to be expanded, both spatially and temporally.

With regard to local impacts, even if all existing staff were able and willing to relocate (which is unlikely, as noted above), the cost of relocation and potentially buying those staff out of existing homes is not trivial. The economy and current real estate market simply cannot absorb such an influx of houses. At the local level, these NOAA employees are important, year-round contributors to an economy that is seasonally dependent on tourism.

Finally, NOAA's proposal to close the lab would leave a notable absence in geographic coverage between Sandy Hook, New Jersey and Miami, Florida along the Atlantic coast. This is at odds with the NOAA presence along the Gulf of Mexico, with labs located in Panama City, Florida; Pascagoula, Mississippi; Stennis, Mississippi; Lafayette, Louisiana; and Galveston, Texas. This coverage along the Gulf coast represents a much larger investment of resources over a shorter stretch of coastline. Given the Beaufort Lab's location near the intersection of two major biological and oceanographic convergence zones, it seems the agency should be investing more in this facility rather than less, particularly in light of NOAA's commitment to determining the impacts of climate change on fisheries resources. In closing, the \$54 million figure being cited as the cost of maintaining the Beaufort Lab appears excessive considering the condition of the facilities. While I appreciate the administration's desire to reduce its overall footprint, an updated maintenance estimate and comparison to similar NOAA facilities should be considered.

I very much appreciate the opportunity to comment on such an important issue.

PREPARED STATEMENT OF THE ENTOMOLOGICAL SOCIETY OF AMERICA

The Entomological Society of America (ESA) respectfully submits this statement for the official record in support of funding for the National Science Foundation (NSF). ESA requests a robust fiscal year 2015 appropriation of \$7.5 billion for NSF, including strong support for the Directorate for Biological Sciences (BIO).

Advances in basic biological sciences, including entomology, provide the fundamental knowledge that is the basis for overall scientific progress and the development of new technologies and strategies that address societal challenges related to economic growth, security, and human health and well-being. Entomologists' basic research on insect anatomy, classification, and genetics improves our understanding of evolution and biodiversity. Better knowledge of insect behavior and the dynamics of insect populations is an important component to the study of ecosystems and the environment. Additionally, insects play a critical role in our ability to explore the underpinnings of biological processes at the cellular and molecular level. Insects in-

cluding *Drosophila* flies have long served as model systems for animals that scientists use to study biochemistry, microbiology, molecular biology, and toxicology, among other subjects. In many cases, insects are ideal for use in laboratory experimentation because they are inexpensive, easy to handle, have relatively short life spans, and do not require special facilities required to maintain vertebrate animals.

NSF is the only Federal agency that supports basic research across all scientific and engineering disciplines, except for the medical sciences. In fiscal year 2013, the foundation supported an estimated 299,000 researchers, scientific trainees, teachers, and students, primarily through competitive grants to nearly 2,000 colleges, universities, and other institutions in all 50 States. NSF also plays a critical role in training the next generation of scientists and engineers, ensuring our Nation will remain globally competitive in the future. For example, the NSF Graduate Research Fellowship Program selects and supports science and engineering graduate students demonstrating exceptional potential to succeed in science, technology, engineering, and mathematics (STEM) careers.

Through activities of its BIO Directorate, NSF advances the forefront of knowledge about complex biological systems at multiple scales, from molecules and cells to organisms and ecosystems. In addition, the directorate contributes to the support of research resources, including important biological collections and biological field stations. NSF BIO is also the Nation's primary funder of fundamental research on biodiversity and environmental biology.

For example, NSF-funded researchers have recently examined the wide-ranging effects of an ongoing bark beetle invasion which threatens the destruction of millions of acres of forests in the Western United States.¹ The death of pine trees caused by bark beetles has severe implications for the forest's canopy and water systems, and creates conditions that favor devastating forest fires. The study has provided new insights into how invasive insect species that damage or destroy plants can affect entire ecosystems at the watershed scale.

Another NSF-funded researcher² is studying a phenomenon that allows a locust to change its color depending on how densely populated an area is with other locusts; this trait is believed to cause locust swarms, which can be very destructive to agriculture. Migratory locust swarms, one of the biblical plagues, continue to contribute to famine in Africa. The current research is examining how the locusts change their appearance, and whether these genetic traits can be manipulated to maintain an appearance that is not conducive to forming swarms. The results of this study could provide a new way to control locusts without relying on chemical pesticides, which can have negative effects on the surrounding ecosystem.

One example of how NSF's support for basic research using insects contributes to our understanding of human and animal biology is a recent NSF-funded study on the behaviors of *Drosophila* vinegar flies,³ which has advanced scientists' knowledge about neurobiology of insects, animals, and humans. The results of the research may also help inform the field of robotics; scientists believe that modeling the functions of the insect brain can help develop algorithms able to control robotic systems. Other NSF-funded research on *Drosophila* genetics⁴ is helping scientists understand gene mutations in humans, as humans and these tiny flies share conserved genetic similarities.

Given NSF's critical role in supporting fundamental research and education across science and engineering disciplines, ESA supports an overall fiscal year 2015 NSF budget of \$7.5 billion. Within this budget, ESA requests robust support for the NSF BIO Directorate, which funds important research studies and biological collections, enabling discoveries in the entomological sciences to contribute to our understanding of environmental and evolutionary biology, physiological and developmental systems, and molecular and cellular mechanisms.

ESA, headquartered in Annapolis, Maryland, is the largest organization in the world serving the professional and scientific needs of entomologists and individuals in related disciplines. Founded in 1889, ESA has nearly 7,000 members affiliated with educational institutions, health agencies, private industry, and government. Members are researchers, teachers, extension service personnel, administrators,

¹ Mikkelsen, KM, et al. "Bark beetle infestation impacts on nutrient cycling, water quality and interdependent hydrological effects." *Biogeochemistry* (2013).

² CAREER: "Evolution of locust swarms and phenotypic plasticity in grasshoppers." NSF Award Abstract #1253493.

³ van Breugel, F, et al. "Plume-tracking behavior of flying *Drosophila* emerges from a set of distinct sensory-motor reflexes." *Current Biology* (2014).

⁴ CAREER: "Investigating the evolution of gene regulation at *Drosophila* Hox genes." NSF Award Abstract #0845103.

marketing representatives, research technicians, consultants, students, pest management professionals, and hobbyists.

Thank you for the opportunity to offer the Entomological Society of America's support for NSF. For more information about the Entomological Society of America, please see <http://www.entsoc.org/>.

PREPARED STATEMENT OF THE FEDERATION OF AMERICAN SOCIETIES FOR
EXPERIMENTAL BIOLOGY

The Federation of American Societies for Experimental Biology (FASEB) respectfully requests a fiscal year 2015 appropriation of a minimum of \$7.6 billion for the National Science Foundation (NSF). This demonstrates commitment to the critical mission of the agency and is an important first step in returning to a model of sustainable growth.

FASEB, a federation of 26 scientific societies, represents more than 120,000 life scientists and engineers, making it the largest coalition of biomedical research associations in the United States. Our mission is to advance health and welfare by promoting progress and education in biological and biomedical sciences.

Progress in science and technology is becoming increasingly interdisciplinary, as discoveries in one field fuel progress in another. NSF is the only Federal research agency dedicated to advancing all fields of fundamental science and engineering. As a result, the broad research portfolio of NSF is critical for our Nation's capacity for innovation and essential for our prosperity, quality of life, and national security.

The NSF Graduate Research Fellowship Program awards approximately 2,500 3-year fellowships annually to outstanding graduate students pursuing advanced degrees in science, technology, engineering, or mathematics. These fellowships support the education and training of the next generation of researchers, ensuring a robust and competitive workforce. NSF graduate research fellows have become leaders in the scientific community.

Of the U.S. Nobel Laureates in the sciences, 200 received NSF funding over the course of their careers, including the 2013 prize winners in physiology or medicine, chemistry, and economics.

Recent examples of NSF-funded research include:

- Harnessing More Solar Energy.*—Researchers have developed a new material for solar panels that is cheaper, more efficient, and can harness energy from visible and infrared light, unlike previous materials that could only use ultraviolet light. The new material, developed by NSF-funded researchers, increases efficiency by absorbing and converting six times the energy of its predecessors. Researchers are currently scaling up the prototype to a full size solar panel for implementation on the national power grid.
- New Microscope Detects the Movement of Atoms.*—NSF-funded researchers have developed a new electron microscope that can detect the movement of atoms and molecules. The cutting-edge technology allows users to observe the fundamental transformations of matter: chemical reactions and the electric charges of interacting atoms. The new microscope has immediate applications in the clean energy industry, development of nanotechnology, and countless other scientific endeavors.
- Preventing Post-operative Infections.*—Infection at the surgical site is one of the most common types of post-operative complications, which lengthens hospital stays and increases healthcare costs. Scientists with NSF support have developed a new antibiotic coating for surgical sutures. Lab tests have shown that the new coating is 1,000 times more effective at preventing infection than previous coatings, and even prevents the spread of staphylococcus aureus, the variety of "staph" that frequently causes virulent post-surgical infections.
- New Storm Radar Saves Lives.*—Researchers supported by NSF are building an advanced radar network to detect severe storms earlier. Using novel algorithms, the network can generate information faster and with more geographic specificity, enabling first responders to take action before a storm hits. Researchers are currently testing the system in southwestern Oklahoma and Dallas/Ft. Worth, Texas. Once it is broadly implemented, the system will reduce injuries, enable first responders to be more effective, and save lives.
- Preserving Bat Colonies to Protect the Ecosystem.*—Agricultural pests cost the U.S. farm industry over \$1 billion per year in lost crop yield and additional cost of pesticide use. NSF-funded researchers studied bat colonies in the cotton and corn growing region of southern Texas and found that bats are valuable to farmers because they consume insects that destroy crops, reducing the need to use pesticides. Protecting bat colonies in crop-growing regions will both decrease

pesticide cost to farmers and reduce the presence of chemicals on food people eat.

MAINTAINING GLOBAL LEADERSHIP

Scientific and technological advances keep our Nation internationally competitive by spurring the innovations that fuel economic growth. NSF's broad portfolio of fundamental research expands the frontiers of knowledge, opening the way to these innovations. Through its education initiatives, NSF ensures that the U.S. will continue to have an unrivaled scientific and engineering workforce.

NSF-funded research leads to major scientific breakthroughs, many of which provide the basic knowledge that stimulates innovation in the private sector. We must build on prior NSF investment and provide an adequate funding level to advance discovery, educate the next generation of scientists and engineers, and retain our position as the global leader in innovation. In fiscal year 2015, FASEB recommends a minimum of \$7.6 billion for the NSF. This is the level that the America COMPETES Act authorized for the agency for 2011 and is an important first step in returning to a model of sustainable growth.

Thank you for the opportunity to offer FASEB's support and recommendations for the NSF.

PREPARED STATEMENT OF JOHN FIEBERG, PH.D., ASSISTANT PROFESSOR OF QUANTITATIVE ECOLOGY, DEPARTMENT OF FISHERIES, WILDLIFE, CONSERVATION BIOLOGY, UNIVERSITY OF MINNESOTA

Dear Members of the Senate Appropriations Subcommittee of Commerce, Justice, Science, and Related Agencies: I recently became aware of the National Oceanic and Atmospheric Administration's (NOAA's) National Ocean Service's (NOS) request to close the Beaufort Laboratory. Having collaborated with scientists at the Beaufort lab, I am well aware of the many ways the laboratory's staff contribute to NOAA's mission: they provide state-of-the-art fishery stock assessments that help to determine how many fish can be sustainably caught in the southeast United States, they conduct fishery-independent surveys to collect the data necessary for conducting informative stock assessments, and they conduct cutting edge research aimed at improving the way we "do" science in support of fisheries management. In short, closing the Beaufort lab would be a significant loss, not only for the 100–110 staff employed by the lab, but also the fishing and marine science communities that benefit from their work. Thus, I am writing to request that NOAA's Beaufort Laboratory closure proposed in the 2015 President's Budget Request be removed from the NOS budget.

The recommendation to close the laboratory was largely driven by financial considerations related to the long-term cost of maintaining the infrastructure at the laboratory. Unfortunately, this decision was based on inaccurate, outdated information that overstated the costs of maintaining the NOAA Beaufort Laboratory. Several recent investments in new construction and renovations, totaling approximately \$14 million dollars, were not properly considered when making the recommendation. Recent facility improvements include:

- 2006: Administration Building replaced (with North Carolina NERRs)
- 2007: Bridge replaced—cost shared with Duke University
- 2008: Maintenance Building replaced
- 2009: Air conditioning/Air handler replacement and mold abatement
- 2009: Sample Storage/Chemical Storage/Haz-Mat buildings consolidated and replaced
- 2014: Seawall repair, electrical upgrade and State of North Carolina funded storm water control

In addition, the NOS request underestimated the staff that would be impacted by the closure by not including the more than 40 National Marine Fisheries Service staff and staff members of the North Carolina National Estuarine Research Reserve co-located at the facility.

It is surprising that the request for closure comes at a time when the National Ocean Service is requesting an increase of \$4 million in funding for another center to support Ecological Forecasting of Harmful Algal Blooms (HAB), Hypoxia, pathogens and Species Distributions (see budget summary, page 8, paragraph 1). The Beaufort Laboratory has both the expertise and facilities required to address these issues. Researchers and research teams at the Beaufort Laboratory have repeatedly been recognized for their work. Further, the laboratory's excellent research capabilities and reputation also attract support, both from other branches of NOAA and

from other organizations which have recognized potential benefits of the Laboratory's studies, and long have augmented the support provided by NOAA.

In summary, the closing of the Beaufort Laboratory does not make economic sense, given the recent investments in facility infrastructure and the need to address emerging marine issues identified by the National Ocean Service. More importantly, closing the laboratory would have significant negative consequences for the 100–110 staff employed by the lab and also the large fishing and marine science communities that rely on the outstanding quality of work of the lab and its members.

PREPARED STATEMENT OF DR. JANELLE FLEMING OF SEAHORSE COASTAL
CONSULTING, LLC AND DISCOVERY DIVING CO., INC.

In Re: Potential closing of Beaufort, North Carolina laboratory of NOAA, National Marine Fisheries Service, Southeast Fisheries Science Center.

Dear Committee on Appropriations Senators,

This letter is not a formal testimony, but rather a comment on how this laboratory has guided some of my research as a student and as an independent consultant and how essential the lab is to the functioning of the local economy and research. You may or may not be aware of the fact that President Obama has targeted the closing of the Beaufort National Oceanic and Atmospheric Administration (NOAA) lab as part of the 2014–2015 budget proposal. This is the only Federal lab between Miami, Florida and Sandy Hook, New Jersey. This lab houses over 150 scientists, technicians, and office personnel that conduct important research locally as well as nationally and internationally.

In terms of ecology and physical oceanography, North Carolina is in a unique position because it maintains both tropical and temperate characteristics. During the summer, the Gulf Stream pushes up from Florida and winds bring it close to shore, bringing it with tropical species of algae and animals (fish, mammals, etc). During the winter, the Greenland current pushes down from the North Atlantic and brings the temperate species into the area. The capes also allow for a tremendous amount of recirculation within the area and these different species have learned to adapt to the changing currents found of the North Carolina coast. All this is to say that North Carolina is uniquely situated to study fisheries issues, sediment transport issues, wind energy issues, and sea level rise issues, just to name a few. The NOAA lab has been essential in understanding the scientific root cause of some of the major questions about physical circulation and its role governing the ecology of the area.

As a graduate student, I had the fortune of working with some of the NOAA scientists on my Ph.D. project. Their advice in terms of data collection and analysis, were pivotal in determining some of the causes of wind-driven circulation in the Neuse River Estuary and how that might lead to fish kills. As the scientists were down the street, I could call them, make an appointment and meet with them that day. Nowhere else in the world, do you get that type of interaction. In Beaufort, we are able to do this because of the logistics.

As an independent consultant, I was able to work with Dr. Pat Tester on Harmful Algal Blooms, both in North Carolina, South Carolina, Georgia and Florida, but also in Belize. Innovative measurement and monitoring techniques have been developed at the Beaufort NOAA lab in conjunction with the local universities in the area, Duke University, North Carolina State University, and University of North Carolina-Chapel Hill.

Finally, I have been collaborating with Dr. James Morris on the Lionfish invasive species epidemic that is affect the local fisheries in North Carolina as well as Florida and the Caribbean. We have just recently started an experimental project that seeks to develop a commercial fishery for the lionfish. Being able to communicate with the researchers face to face has lead to several advancements in our experimental techniques and furthered the studies.

In closing, when you look at this item in the President's budget proposal, I would like you to think of three things:

1. What would the removal of a vibrant research organization do on the "brain drain" within a local community, rich with university collaboration?
2. Does it make sense to centralize and reduce the number of laboratories that cover the coast, given that each region has their own specific characteristics?
3. If the laboratory is closed, more money and time would be lost in transitioning those full time Government employees to a different laboratory and the research that they are currently working on would be delayed 2–3 years.

Please reconsider this budget as the Beaufort NOAA lab affects approximately \$58 million into the local economy and aids in fisheries independent research such as advanced procedures in stock assessment, fisheries oceanographic research, and oceanic observations.

Thank you,

PREPARED STATEMENT OF THE GEOLOGICAL SOCIETY OF AMERICA

SUMMARY

The Geological Society of America (GSA) supports strong and sustained investments in earth science research and education at the National Science Foundation (NSF) and National Aeronautics and Space Administration (NASA). We believe investment in these agencies is necessary for America's future economic and science and technology leadership, both through discoveries that are made and the talent developed through their programs. In addition, this research addresses such critical societal issues as energy and mineral resources, water availability and quality, climate change, waste management, and natural hazards. The United States faces a looming shortage of qualified workers in these areas that are critical for national security. We are very concerned that cuts in earth science funding will cause students and young professionals to leave the field, potentially leading to a lost generation of professionals in areas that are already facing worker shortages and inhibit potential economic growth. GSA urges Congress to provide the National Science Foundation at least \$7.5 billion in fiscal year 2015.

ABOUT THE GEOLOGICAL SOCIETY OF AMERICA

The Geological Society of America, founded in 1888, is a scientific society with over 26,000 members from academia, government, and industry in all 50 States and more than 100 countries. Through its meetings, publications, and programs, GSA enhances the professional growth of its members and promotes the geosciences in the service of humankind.

As the National Science Board's recent 2014 Science & Engineering Indicators reports, America's share of the world's R&D fell from 37 percent to 30 percent from 2001 and 2012. As other nations have been increasing their support for long-term, high-risk research, we have been allowing ours to stagnate or decline. We must reverse that trend and tackle our mounting innovation deficit if we want to retain our global economic leadership.

NATIONAL SCIENCE FOUNDATION

The Geological Society of America (GSA) urges Congress to provide the National Science Foundation (NSF) at least \$7.5 billion in fiscal year 2015. GSA greatly appreciates your efforts to increase the NSF budget in recent years. Although NSF was able to regain some of its loss from sequestration in fiscal year 2014, GSA remains concerned about the impact of flat and declining research budgets on our Nation's future innovations and innovators. We feel that allowing NSF's budget to catch up with research inflation costs over the past few years is the first step to putting NSF back on the path necessary to maintain and regain America's future economic and science and technology leadership. We are concerned about the cuts to the Research and Related Activities Account and flat funding (0.1 percent increase) in geoscience research in the request, but appreciate that \$552 million was proposed to allow growth in the agency in the Opportunity, Growth, and Security Initiative.

The Earth sciences are critical components of the overall science and technology enterprise and NSF investment and should be increased. NSF's Directorate for Geosciences supports approximately 65 percent of all basic university research in the geosciences: the largest Federal support for Earth science research essential for developing policies regarding land, mineral, energy, public safety and water resources at all levels of government. This Directorate regularly receives a large number of exciting research proposals that are highly rated for both their scientific merit and their broader impacts; the funding rate for research grants dropped to 23 percent last year, leaving many meritorious projects unfunded.

Increased investments in NSF's earth science portfolio are necessary to address such issues as natural hazards, energy, water resources, climate change, and education. Specific needs include:

- Natural hazards remain a major cause of fatalities and economic losses worldwide. Several areas in the United States are vulnerable to damages from earthquakes, tsunamis, volcanoes, and landslides—as evidenced by the recent land-

slide in Washington. NSF research that improves our understanding of these geologic hazards will allow for better planning and mitigation in these areas that will reduce future losses. We urge Congress to support NSF investments in fundamental earth science research that underpin basic understanding and innovations in natural hazards monitoring and warning systems.

- Mineral resources are essential to modern civilization, and a thorough understanding of their distribution, consequences of their use, and the potential effects of mineral supply disruption is important for sound public policy. The Division of Earth Sciences supports proposals for research geared toward improving the understanding of the structure, composition, and evolution of the Earth and the processes that govern the formation and behavior of the Earth's materials. This research contributes to a better understanding of the natural distribution of mineral and energy resources for future exploration. In particular, GSA encourages support for research on critical minerals, for which our Nation is dependent upon foreign sources.
- The devastating droughts in California highlight our dependence on water. NSF's research addresses major gaps in our understanding of water availability, quality, and dynamics, and the impact of both a changing and variable climate, and human activity, on the water system. Increased public investment is needed to improve the scientific understanding of water resources, including improved representation of geological, biological, and ecological systems, for informed decisionmaking.
- Forecasting the outcomes of human interactions with Earth's natural systems, including climate change, is limited by an incomplete understanding of geologic and environmental processes. Improved understanding of these processes in Earth's deep-time history can increase confidence in the ability to predict future states and enhance the prospects for mitigating or reversing adverse impacts to the planet and its inhabitants.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

GSA supports earth science and planetary exploration research at NASA and is concerned about cuts in the fiscal year 2015 request, although increases are proposed in the Opportunity, Growth, and Security Initiative. This research is important to understand the evolution of Earth; to deepen and expand human understanding of our place in the universe; to reinforce science, technology, engineering and math (STEM) education and effective training of the next generation of scientists; to increase U.S. competitiveness in science and technology development; and to enhance the quality of life through technological innovation. In addition, the discoveries and technologies of these programs form the basis of many industries and partnerships that drive economic growth.

Planetary missions at NASA are designed to collect data to better understand the history and workings of the entire solar system, to gain insight into the formation and evolution of Earth and the other planets, to understand how life began on Earth, and to determine whether extraterrestrial habitable environments and life forms exist (or ever did exist) elsewhere in the solar system or beyond. To support these missions, planetary scientists engage in both terrestrial field studies and Earth observation to examine geologic features and processes that are common on other planets, such as impact structures, volcanic constructs, tectonic structures, and glacial and fluvial deposits and landforms. Geochemical studies include investigations of extraterrestrial materials now on Earth, including lunar samples, tens of thousands of meteorites, cosmic dust particles, and, most recently, particles returned from comets and asteroids.

Exploration of other planets in the solar system requires major national and international initiatives, significant funding levels, and long timelines for mission planning and collaborative research. For scientists, the funding cycle is much shorter than typical mission cycles, and in particular, graduate student and career-development timelines are much shorter than mission timeframes. Therefore, the growth and continued development of a robust workforce capable of conducting complex space missions and analyzing the scientific data returned from such missions does not depend on individual missions as much as it depends upon a consistent, sustained program that educates and develops planetary scientists.

GSA supports NASA earth observing systems, including Landsat, and their research into our planet. By providing adequate resources to maintain current and develop next-generation satellites, the Nation will continue to have access to data that is used by diverse stakeholders ranging from farmers to water managers to make critical decisions.

SUPPORT NEEDED TO EDUCATE FUTURE INNOVATIONS AND INNOVATORS

Research in Earth science and geoscience education is fundamental to training the next generation of Earth science professionals. The United States faces a looming shortage of qualified workers in these areas that are critical for national security. We are very concerned that cuts in earth science funding will cause students and young professionals to leave the field, potentially leading to a lost generation of professionals in areas that are already facing worker shortages.

A 2013 report by the National Research Council, "Emerging Workforce Trends in the Energy and Mining Industries: A Call to Action," found, "Energy and mineral resources are essential for the Nation's fundamental functions, its economy, and its security . . . In mining (nonfuel and coal) a personnel crisis for professionals and workers is pending and it already exists for faculty."

Another recent study, "Status of the Geoscience Workforce 2011," by the American Geosciences Institute found: "The supply of newly trained geoscientists falls short of geoscience workforce demand and replacement needs. . . . aggregate job projections are expected to increase by 35 percent between 2008 and 2018. . . . The majority of geoscientists in the workforce are within 15 years of retirement age. By 2030, the unmet demand for geoscientists in the petroleum industry will be approximately 13,000 workers for the conservative demand industry estimate."

Increased NSF and NASA investments in earth science education at all levels to meet these needs and develop an informed electorate. Knowledge of the earth sciences is essential to science literacy and to meeting the environmental and resource challenges of the twenty-first century. NSF's Education and Human Resources Directorate researches and improves the way we teach science and provide research and fellowship opportunities for students to encourage them to continue in the sciences. Similarly, NASA's educational programs have inspired and led many into science careers.

Please contact GSA Director for Geoscience Policy Kasey White at kwhite@geosociety.org for additional information or to learn more about the Geological Society of America—including GSA Position Statements on water resources, planetary research, energy and mineral resources, natural hazards, climate change, and public investment in earth science research.

PREPARED STATEMENT OF JOHN J. GOVONI, PH.D., ECOLOGICAL CONSULTANT

In the President's Budget request for 2015, the National Oceanic and Atmospheric Administration (NOAA), National Ocean Service (NOS), proposes to close the NOAA Laboratory located in Beaufort, North Carolina (reference the President's fiscal year 2015 Budget for NOS, Coastal Science, Assessment, Response and Restoration: NOAA Blue Book, page 8). The reasons given are cost savings by closing an aged facility. The request does not, however, cite dollar amounts that would be incurred with closure, and ignores the \$14 million dollars recently invested in infrastructure replacements and refurbishments at the Beaufort Laboratory. The United States Government can ill-afford to close the Beaufort Laboratory, as proposed in the President's fiscal year 2015 budget request.

The Beaufort Laboratory located in Beaufort, North Carolina, was formerly named the U.S. Fisheries Commission Laboratory at Beaufort and the Beaufort Laboratory of the NOAA—National Marine Fisheries Service (NMFS), and is now formally named the NOAA, NOS, Center for Coastal Fisheries and Habitat Research (CCFHR). It is the second oldest Federal marine research Laboratory in the U.S. For the past 115 years, the Beaufort Laboratory has served the Nation by providing timely and much needed research products used to guide the effective management of the Nation's natural resources. The Beaufort Laboratory has gained prominent recognition, reputation, and credibility both nationally and internationally. It is the only Federal, coastal ocean, research laboratory between New Jersey and Miami, Florida.

The Beaufort Laboratory operates research programs within three different NOAA components: NOS, NMFS, and the National Estuarine Research Reserve System (NERRS). No consideration of NMFS or NERRS operations, given the proposed closure, is reflected in the President's budget request for NOS fiscal year 2015. If enacted, the closure proposed to begin as early as October 2014, will have severe impacts on the multiple programs of NMFS, NOS, and NERRS.

Curiously, in the same budget proposal, NOAA requests an increase of \$4 million to support ecological forecasting. With this increase, NOAA and NOS' National Centers for Coastal Ocean Science (NCCOS) will develop and implement ecological forecasts for harmful algal blooms (HABs), hypoxia, marine pathogens, and marine species distributions. Ironically, at the same time it is proposing to close the Beaufort

Laboratory; the Beaufort Laboratory has well-established expertise and facilities required to address many of those very same issues, and is currently doing so. Closure of the Beaufort Laboratory would be operationally and fiscally irresponsible.

The laboratory currently employs nationally and internationally known scientists, who are providing essential and necessary support for the resolution of other national issues (NOS). These issues include: the impacts of invasive species on marine ecological communities; ecological forecasting of the condition of habitats and ecosystems that support many commercially and recreationally exploited species; harmful algal blooms that can and do impact human health; and aquaculture planning and sustainability for the Atlantic and Pacific coasts, Gulf of Mexico, Caribbean (U.S. possessions), and the Hawaiian archipelago. The Beaufort Laboratory also supports efforts at recovery from oil spills, coral reefs, and sea-grass beds, and the restoration of the Nation's shorelines and marshes. The Beaufort Laboratory's excellent research capabilities and reputation have attracted, and continue to attract, support from other branches of NOAA, from other Federal Organizations, and from non-governmental organizations (NGO's) that have long recognized the benefits provided by the Beaufort Laboratory. This inter-agency cooperation, and the efficiency that this cooperation provides, would be lost with closure.

The Beaufort Laboratory (NMFS) conducts fish stock assessments for the South Atlantic Fishery Management Council, the Caribbean Fisheries Management Council, the Gulf States Marine Fisheries Council, and the Atlantic States Marine Fisheries Commission. These are all organizations mandated by Federal Law. The support of management councils and Commissions provided by the Beaufort Laboratory would be lost with the closure of the Beaufort Laboratory. Closure is thus organizationally irresponsible.

The Beaufort Laboratory currently employs 71 Federal employees and 33.5 contractors. Some of the Federal employees could be relocated, but contract employees would lose their jobs. Further, the cost of relocating permanent Federal employees is not accounted for in the President's budget request. Eight North Carolina State employees work at the Rachel Carson National Estuarine Research Reserve (a reserve within the NERRS System) headquartered at the Beaufort Laboratory. The impacts to the employees, their families, and the local community have not been evaluated in the proposed budget request. Thus, closure would be an embarrassment to a Government committed to increasing job opportunities and supporting economic recovery.

The President's budget for fiscal year 2015 cites the age of the Beaufort Laboratory and the need for infrastructure repairs and improvements that exceed agency budget resources. Considerable tax dollars have been invested in renovating the Beaufort Laboratory; dollars invested toward this end since 2006 currently approach \$14 million. A new administration building, that serves not only NOS and NMFS operations at the Beaufort Laboratory, but also the North Carolina, Department of the Environment and Natural Resources, Division of Coastal Management and the Rachael Carson, has been constructed, and has been in operation for 10 years. A new Bridge that accesses Pivers Island—both the Beaufort Laboratory and the Duke University Marine Laboratory—has been constructed and is in operation. A new Maintenance Facility has been constructed. A new scientific collection storage building has been constructed. Storm-water drainage systems have been constructed. The seawall that surrounds the Federal half of Pivers Island is currently being renovated. Yet, the two extant, old structures that remain have been renovated and are fully functional and operable. Further, the Beaufort Laboratory contains a large and diverse array of valuable scientific equipment that cannot be maintained or effectively used with the loss of support staff. The large Government investment in facilities and equipment would be wasted should the Beaufort Laboratory close. Closure would be fiscally irresponsible.

With the President's fiscal year 2015 budget request, NOAA proposes to shift the funding to the Washington, District of Columbia area, which is among the most expensive locations nationally: this is not cost effective! The cost of providing laboratory and office space at Beaufort is cheaper than most other coastal areas of the United States. In addition, the District of Columbia area has no access to the marine environments represented at Beaufort, and District of Columbia does not have the laboratory space and equipment to replace what would be lost with the closure of the Beaufort Laboratory.

Since taking over the Beaufort Laboratory from the NMFS in 1998–99, NOS has withdrawn support and drained resources. There has been an approximate 45 percent reduction in NOS staff over the past 9 years and a concomitant approximate 35 percent reduction in funding. This steady withdrawal of support is inexplicable, counter-productive to NOAA's mission, and unwarranted.

I urge this subcommittee to oppose the proposed closure of the Beaufort Laboratory when Congress considers the 2015 Appropriations Bill. I urge this subcommittee to encourage Congress to inform NOAA that requests for closure of the Beaufort Laboratory will not be entertained in the future, and that Congress should direct NOAA to restore the Beaufort Laboratory staffing, operational support, and research funding. I urge the U.S. Congress to restore budget line-item appropriations for the Beaufort Laboratory.

PREPARED STATEMENT OF THE GREAT LAKES INDIAN FISH AND WILDLIFE
COMMISSION (GLIFWC)

AGENCY INVOLVED

Department of Justice.

PROGRAM INVOLVED

COPS Tribal Resources Grant Program (TRGP) Hiring and Equipment/Training Program under the Coordinated Tribal Assistance Solicitation (CTAS).

SUMMARY OF GLIFWC'S FISCAL YEAR 2015 TESTIMONY

GLIFWC appreciates the increase of \$3.5 million proposed by the Administration for the Tribal Resources Grant Program (TRGP), providing a total of \$20 million for this critical program. The TRGP has enabled GLIFWC to solidify its communications, training, and equipment requirements, essential to ensuring the safety of GLIFWC officers and their role in the proper functioning of interjurisdictional emergency mutual assistance networks in the treaty ceded territories. GLIFWC also supports the administration's recommendation to dedicate \$15 million in COPS Hiring funds for hiring new law enforcement officers in tribal communities. This program currently allows GLIFWC to maintain one additional Conservation Enforcement Officer as well as to provide vital training and equipment for all its Officers.

CEDED TERRITORY TREATY RIGHTS AND GLIFWC'S ROLE

GLIFWC was established in 1984 as a "tribal organization" within the meaning of the Indian Self-Determination Act (PL 93-638). It exercises authority delegated by its member tribes to implement Federal court orders and various interjurisdictional agreements related to their treaty rights. GLIFWC assists its member tribes in:

- securing and implementing treaty guaranteed rights to hunt, fish, and gather in Chippewa treaty ceded territories; and
- cooperatively managing, restoring and protecting ceded territory natural resources and their habitats.

For over 25 years, Congress and various administrations have funded GLIFWC through the BIA, the Department of Justice and other agencies to meet specific Federal obligations under: (a) a number of U.S./Chippewa treaties; (b) the Federal trust responsibility; (c) the Indian Self-Determination Act, the Clean Water Act, and other legislation; and (d) various court decisions, including a 1999 U.S. Supreme Court case, that affirm the treaty rights of GLIFWC's member tribes. Under the direction of its member tribes, GLIFWC operates a ceded territory hunting, fishing, and gathering rights protection/implementation program through its staff of biologists, scientists, technicians, conservation enforcement officers, and public information specialists.

COMMUNITY-BASED POLICING

GLIFWC's officers carry out their duties through a community-based policing program. The underlying premise is that effective detection and deterrence of illegal activities, as well as education of the regulated constituents, are best accomplished if the officers work within the tribal communities they primarily serve. The officers are based in reservation communities of the following member tribes: in Wisconsin—Bad River, Lac Courte Oreilles, Lac du Flambeau, Red Cliff, Sokaogon Chippewa (Mole Lake) and St. Croix; in Minnesota—Mille Lacs; and in Michigan—Bay Mills, Keweenaw Bay and Lac Vieux Desert. To develop mutual trust between GLIFWC officers and tribal communities, officers provide outdoor skills workshops and safety classes (hunter, boater, snowmobile, ATV) to 300 tribal youth in grades 4-8 annually. GLIFWC's officers also actively participate in summer and winter youth outdoor activity camps, kids fishing events, workshops on canoe safety and rice stick carving, and seminars on trapping and archery/bow safety. GLIFWC offi-

cers also work to support drug and alcohol prevention efforts in the Lac du Flambeau school system by sponsoring a snowshoe making workshop for tribal youth.

GLIFWC's member tribes realize it is critical to build relationships between tribal youth and law enforcement officers as a means of combatting gang recruitment and drug/alcohol abuse in reservation communities. GLIFWC is taking a pro-active approach to support these efforts and obtained fiscal year 2013 Department of Justice (DOJ) funding to hire a Youth Outreach Officer. Over the next 3 years, this Officer will work to improve and expand youth outdoor recreation activities in partnership with the other GLIFWC officers. The program's goal is to build and expand these relationships to help prevent violations of tribal off-reservation codes, improve public safety and promote an outdoor lifestyle as an alternative to a lifestyle characterized by youth gangs¹ and substance abuse.²

INTERACTION WITH LAW ENFORCEMENT AGENCIES

GLIFWC's officers are integral members of regional emergency services networks in Minnesota, Michigan and Wisconsin. They not only enforce the tribes' conservation codes, but are fully certified officers who work cooperatively with surrounding authorities when they detect violations of State or Federal criminal and conservation laws. These partnerships evolved from the inter-governmental cooperation required to combat the violence experienced during the early implementation of treaty rights in Wisconsin. As time passed, GLIFWC's professional officers continued to provide a bridge between local law enforcement and many rural Indian communities.

GLIFWC remains at this forefront, using DOJ funding to develop interjurisdictional legal training attended by GLIFWC officers, tribal police and conservation officers, tribal judges, tribal and county prosecutors, and State and Federal agency law enforcement staff. DOJ funding has also enabled GLIFWC to certify its officers as medical emergency first responders trained in the use of defibrillators, and to train them in search and rescue, particularly in cold water rescue techniques. When a crime is in progress or emergencies occur, local, State, and Federal law enforcement agencies look to GLIFWC's officers as part of the mutual assistance networks. In fact, the role of GLIFWC's officers in these networks was further legitimized in 2007 by the passage of Wisconsin Act 27, which affords GLIFWC wardens the same statutory safeguards and protections that are afforded to their Department of Natural Resources (DNR) counterparts. GLIFWC wardens will now have access to the criminal history database and other information to identify whom they are encountering in the field so that they can determine whether they are about to face a fugitive or some other dangerous individual.

DOJ has acknowledged that, "[t]he officer-to-population ratio still remains lower on Indian reservations than in other jurisdictions across the country. . . . tribal law enforcement has a unique challenge of patrolling large areas of sparsely populated land" (DOJ 2014 Budget Summary—Public Safety in Indian Country). GLIFWC's participation in mutual assistance networks located throughout a 60,000 square mile region directly addresses this problem in an effective and cost efficient manner.

GLIFWC PROGRAMS FUNDED BY DOJ

GLIFWC recognizes that adequate communications, training, and equipment are essential both for the safety of its officers and for the role that GLIFWC's officers play in the mutual assistance networks in the ceded territories. GLIFWC's COPS grants have provided a critical foundation for achieving these goals. Significant accomplishments with Tribal Resources Grant Program funds include: (1) assisting the Apostle Island National Lakeshore in protecting 138,000 recent ice caves visitors on Lake Superior; (2) working in partnership with the United States Forest Service to combat illegal marijuana grow sites on public lands; and (3) participating in drug sweeps held on the Lac du Flambeau and the Menominee reservations that required large numbers of law enforcement officers to coordinate arrests simultaneously.

¹The American Indian and Alaska Native (AI/AN) youth population is more affected by gang involvement than any other racial population. 15 percent of AI/AN youth are involved with gangs compared to 8 percent of Latino youth and 6 percent of African American youth nationally. (National Council on Crime and Delinquency: Glesmann, C., Krisberg, B.A., & Marchionna, S., 2009).

²22.9 percent of American Indian and Alaska Native (AI/AN) youth aged 12 and older report alcohol use, 18.4 percent report binge drinking and 16.0 percent report substance dependence or abuse. In the same group, 35.8 percent report tobacco use and 12.5 percent report illicit drug use. (2010 National Survey on Drug Use and Health: Summary of National Findings).

Increased Versatility and Improving Public Safety.—Bayfield County is the third largest county in Wisconsin, covering 2,042 square miles, yet it possesses a population of only 15,014 residents.³ This vast, rural county is located on the shores of Lake Superior and contains the Apostle Island National Lakeshore, which typically hosts 150,000 visitors throughout an entire year.

In 2014, the cold winter and multi-media technology resulted in a dramatic increase in visitors to the ice caves at the Lakeshore. Suddenly, law enforcement needed to provide safety for the 138,000 unexpected visitors who walked over a mile onto Lake Superior to view the ice caves. The National Park Service and local law enforcement quickly became overwhelmed with the large volume of visitors and requested GLIFWC assistance. GLIFWC responded with certified law enforcement officers trained in emergency ice rescue and wilderness first aid. Officers were also equipped with snowmobiles for patrol and emergency response. GLIFWC's incident command center trailer was used to provide a base for enforcement activities at the site and a 20-foot airboat was on standby to respond to medical emergencies. It was the COPS Tribal Resources Grant Program that provided training for GLIFWC officers and funding to purchase the snowmobiles, the incident command center trailer, and the 20-foot airboat.

Partnerships combat illegal marijuana grow sites on public lands.—With Federal, State and local law enforcement partners, GLIFWC officers have provided assistance in efforts to intervene in cannabis cultivation operations. Over the past 3 years, GLIFWC wardens have participated in three raids of such operations located on public land within treaty ceded territories, including: (1) an interagency cannabis arrest of 5 individuals in Ashland county and the destruction of 9,400 plants in 2011; (2) an interagency cannabis arrest of 6 individuals in Langlade County and the destruction of 9,000 plants in 2012; and (3) joint grid patrols with the assistance of National Guard helicopters that identified 2 grow sites in 2013. In 2013, GLIFWC officers also participated in closing down an outdoor cannabis cultivation operation on the Menominee Reservation, resulting in the destruction of 1000 plants and 2 arrests. GLIFWC has used DOJ COPS funding to provide equipment and tactical training to its wardens to enhance their effectiveness in these rural and heavily-wooded environments.

Operation Pandora.—In 2011, GLIFWC officers utilized the COPS Tribal Resources Grant Program to participate in training with the North-Central Drug Enforcement Group to expand professional relationships and establish a foundation for cooperative initiatives to protect officers and improve community safety. In 2013, GLIFWC officers applied their training and participated in Operation Pandora, a multi-agency effort that brought together 11 law enforcement agencies from seven counties. Approximately 40 officers and agents participated in early morning raids at local residences on the Lac du Flambeau Reservation, serving seven search warrants from an ongoing investigation into synthetic and prescription drug trafficking on the reservation. The operation resulted in 35 arrests.

Looking to the Future.—In 2014, GLIFWC applied to the DOJ TRGP program for \$301,071 to: (1) continue participation in the North-Central Drug Enforcement Group and train GLIFWC officers to identify and safely control those suspected of using synthetic drugs; (2) purchase Tasers to improve officer safety; (3) provide training to maintain law enforcement, first aid, and emergency rescue certifications; (4) support interagency efforts to control illegal cannabis cultivation operations on public lands within the 1836, 1837 and 1842 Chippewa ceded territories with training in human tracking skills and the purchase of night vision equipment; and (5) provide officers with trucks, boats and ATV's to improve and increase community policing efforts through safety programs. TRGP resources will allow GLIFWC conservation officers to conduct essential cooperative conservation, law enforcement, outreach, and emergency response activities. We ask Congress to support the DOJ COPS TRGP program at no less than its proposed fiscal year 2015 level.

PREPARED STATEMENT OF JONATHAN HANSEN, MADISON, WISCONSIN

To whom it may concern,

I am writing to discuss the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory located in Beaufort, North Carolina. The lab is part of the Department of Commerce, National Oceanic and Atmospheric Administration and houses employees of the National Marine Fisheries Service (NMFS), National Ocean Service (NOS), and National Estuarine Research Reserve (NERR).

³2010 census.

I urge the proposed closure of NOAA's Beaufort Laboratory be removed from the NOS budget. Currently, the lab houses 108 employees from NMFS, NOS, and NERR. The costs associated with upkeep and maintenance of the lab were inaccurate and outdated in the NOAA explanation of budgetary items. There were mistakes in the number of employees at the facility and incorrect calculations used to detail the budget item. In the past several years, several activities have been completed to keep the facility in good working condition including the replacement of the administration building and maintenance building, replacement of the bridge to the facility, seawall repair, improvements to the air conditioning, and other improvements, which totaled approximately \$14 million. Finally, an updated engineering report (2014) documents that the facility is NOT structurally unsound.

Closing the Beaufort Lab would be a tragedy. The Beaufort Lab is a stalwart of fisheries and oceanic science that has produced many well known scientists. The Beaufort Lab has a good reputation for advancing science in population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; pathogens; and snapper and grouper species. NOAA has repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for the outstanding quality of scientific work completed. Several of the area fisheries labs have located in Beaufort due to the NOAA lab including Duke Marine Lab, North Carolina Division of Marine Fisheries, the Center for Marine Sciences and Technology (CMAST), and the Institute of Marine Science. The NOAA Beaufort Laboratory is the center of productive fisheries science informing fisheries management for the Atlantic and Gulf coasts and is currently the only NMFS lab between Sandy Hook, New Jersey, and Miami, Florida.

Specific items of note from each line office include:

NMFS

Stock Assessment Science

—The NOAA Beaufort Laboratory provides the stock assessment science that determines how many fish can be caught in the southeast United States.

The stock assessment science of the NOAA Beaufort Laboratory focuses on marine fish populations that are ecologically and economically vital to the region and Nation, including snapper-grouper and pelagic species managed by the South Atlantic Fishery Management Council, Atlantic menhaden managed by the Atlantic States Marine Fisheries Commission, and Gulf menhaden managed by the Gulf States Marine Fisheries Commission. Commercial landings from the South Atlantic have been valued at \$176.5 million, supporting a centuries-old cultural way of life, and salt-water recreational fishing in this region tops the Nation for its economic impact on sales and jobs (East Florida and North Carolina generate \$5.3 billion and 47,000 jobs). Atlantic menhaden support the largest fishery on the U.S. east coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico, with a combined value of \$127.7 million.

Fishery-Independent Surveys

—Fishery-independent surveys collect data on fish populations for stock assessments and research, using standardized sampling gears and methodologies.

The Southeast Fishery-Independent Survey (SEFIS), run out of the NOAA Beaufort lab, collects annual information on the abundance, distribution, sizes, and ages of economically-important reef fish species like groupers and snappers on the U.S. East Coast between North Carolina and Florida. Using fish traps and underwater video, SEFIS determines whether reef fish species are increasing or decreasing in abundance so fish stocks can be managed with much greater certainty. The SEFIS staff has developed a close working relationship with fishermen in the Carolinas due to their co location in Beaufort, North Carolina. NOAA's Beaufort Lab is ideally situated, centered in the middle of substantial commercial and recreational fishing industries and a thriving marine science community. If the SEFIS staff was forced to move out of their survey region, ties with the fishing industry and the marine science community would be effectively severed, ultimately resulting in a significant disconnect between the National Marine Fisheries Service and the communities to which they serve.

NERR

Impacts of Closure to the Reserve-Strategic Location and Facility for the Reserve:

—North Carolina Coastal Reserve and National Estuarine Research Reserve staff (7) are currently located at the NOAA Beaufort Lab, which serves as the headquarters office for the program.

- In 2002, Congress provided NOAA with “. . . \$5,000,000 for the Beaufort Laboratory for necessary repairs to existing facilities and to construct a joint laboratory, dock, and other facilities in collaboration with the Rachel Carson National Estuarine Research Reserve.” (Public Law 107–77, See S. Rept. 107–42, p. 106–108.) \$1.32 million was invested in NOAA (\$1.28 million) and State funds (\$42,046) for the construction of a joint building at the NOAA Beaufort Lab to serve the Reserve’s mission.
- The joint building was completed in 2007 and was constructed specifically with the Reserve’s education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities.
- The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve; this close proximity is essential for conducting Reserve activities efficiently to conduct mission-critical programming including educational programs, water quality and habitat monitoring and research programs, and stewardship of the site including species monitoring, debris clean-ups, feral horse management, and access point maintenance.

Reserve Activities at the NOAA Beaufort Lab, 2008–2013

Education

K–12 field trips

- 177 educational programs
- 4947 participants

Teacher workshops

- 28 teacher workshops
- 412 participants

Summer camps

- 109 camp sessions
- 921 participants

Summer public field trips

- 96 field trips
- 1123 participants

Stewardship

Volunteer service at the Rachel Carson Reserve

- 1170 volunteers
- 2873 volunteer hours

Site management

- The NOAA Beaufort Lab provides an ideal base from which to manage the Rachel Carson Reserve due to its close proximity to the Reserve site, location on calm inland waters, and boat launching facilities. Additionally, many NOAA staff conduct or have conducted research at the Rachel Carson Reserve and are able to provide professional perspectives that are valuable to Reserve research and management.

Research

Research permits

- 31 research permits issued for research conducted at the Rachel Carson Reserve

Water quality monitoring

- Water quality inventory and monitoring stations at Middle Marsh and Shackleford Banks, in partnership with the National Park Service

Coastal Training Program

Coastal Training Program workshops

- 31 workshops
- 1076 participants

NOS

NOAA’s HAB program was initiated at the Beaufort Laboratory from the work conducted in North Carolina in 1987 during the “red tide” that affected the central coast for more than 6 months. The Beaufort Lab continues to provide essential research and field data that inform Ecological Forecasting of HABs in Alaska, North Carolina, Florida, Guantanamo Bay, Cuba, Bay of Fundy, Gulf of Maine, Gulf of Mexico, and the Caribbean. Additionally, Beaufort Laboratory staff were recognized

for conducting award winning science in elucidating the life history of *Pfiesteria*, a HAB species that inhabits estuaries and river systems up and down the eastern seaboard. The threat of *Pfiesteria* caused economic damages of ~\$35 million a month to the seafood industry following publicity of local fish kills. Beaufort laboratory staff provided expertise and knowledge to local and State resource managers and University partners to educate the public about the real facts concerning *Pfiesteria* and the safety of their seafood. Beaufort staff have continued to provide their expertise and knowledge to the North Carolina River Keeper Alliance and North Carolina Department of Natural Resources, Division of Water Quality when fish kill events have occurred in local estuaries. This has helped to alleviate public anxiety regarding seafood safety.

In conclusion, closure of the NOAA Beaufort Laboratory would be a poor choice scientifically, economically, and would leave a large part of the east coast without the science that they deserve. The numbers used to estimate the costs of maintaining the facility in good working order were incorrectly estimated and inaccurate numbers of current employees were provided for the budget. In addition, the Federal Government has invested in this laboratory over the long-term, and to close it now would be a gross misuse of Government resources.

PREPARED STATEMENT OF CRAIG A. HARMS, D.V.M., PH.D.; DIPLOMATE, AMERICAN COLLEGE OF ZOOLOGICAL MEDICINE; ASSOCIATE PROFESSOR, DEPARTMENT OF CLINICAL SCIENCES, COLLEGE OF VETERINARY MEDICINE AND CENTER FOR MARINE SCIENCES AND TECHNOLOGY

Dear Senate Subcommittee on Commerce, Justice, Science, and Related Agencies: In reference to the proposed closure of the National Oceanic Atmospheric Administration (NOAA) Laboratory in Beaufort, North Carolina, I urge you to ensure that does not occur. Closure of the NOAA Beaufort Laboratory would be a considerable blow to the marine sciences and education hub of Carteret County. With it's over 100 years of history, the NOAA Laboratory has been a catalyst for attracting excellent scientists and other marine science laboratories, and conducting important research on harmful algal toxins, invasive species, protected species, and stock assessments critical to fishery management decisions. The close aggregation of a slew of top flight marine laboratory and education facilities in Carteret County (including the NOAA Beaufort Laboratory, Duke Marine Laboratory, University of North Carolina (UNC) Institute of Marine Sciences, North Carolina State University (NCSU) Center for Marine Sciences and Technology, North Carolina Aquarium at Pine Knoll Shores, North Carolina Maritime Museum, North Carolina Division of Marine Fisheries, Carteret Community College Aquaculture Program, North Carolina SeaGrant) at the convergence of major marine life zones, is a tremendous asset. As determined by a recent American Association for the Advancement of Science (AAAS) study of the University of North Carolina System marine laboratories in North Carolina, the programs of these multiple facilities are not duplicative, but rather are synergistic. The loss of the NOAA Laboratory would weaken all aspects of scientific productivity, marine education, and the economic driver of marine sciences community.

I moved to Morehead City in 2000 to take up a position at the NCSU Center for Marine Sciences and Technology (CMAST) as soon as it opened. As the only full time faculty member from the College of Veterinary Medicine based at CMAST, people wondered just what a veterinarian would be doing at a marine laboratory. There has been no shortage of veterinary applications to marine science to keep me busy. Much of my work has been shaped by collaborations with scientists at the NOAA Beaufort Laboratory, particularly at the outset working with scientists in the protected species division of the National Marine Fisheries Service (NMFS) on sea turtles and marine mammals, but extending to work on invasive lionfish and development of mariculture. Collaborating with the NOAA Beaufort Laboratory has led to far flung collaborations including participating in the sea turtle rescue response to the *Deepwater Horizon* oil spill, follow-up monitoring of dolphin health in the Gulf of Mexico, and work with the International Whaling Commission improving humane responses to large whale live stranding events, among others.

There are things that a Federal facility can do that academic and nonprofit institutions are less well equipped to handle. An example was a mass stranding of pilot whales on the Outer Banks in January 2005. Having the direct links in Washington both within NOAA and with other relevant Federal agencies was essential for timely information exchange as the response and investigation transpired. The area academic and State agencies could not have managed that response nearly so well without those links.

Commercial fishermen with whom I served on the Sea Turtle Advisory Committee of the North Carolina Marine Fisheries Commission have similarly expressed concern about the possible closure of the NOAA Beaufort Laboratory. As much as they bristle at the regulatory arm of NOAA, they appreciate good science on fisheries stocks for framing the debates on management decisions. Because of the productive collaborations NOAA scientist have formed with commercial fishermen over the years, on both commercial fisheries species and protected species research, fishers know that NOAA Beaufort Laboratory scientists will produce good science with unbiased results, to the extent their resources allow. A recent intent to sue by commercial fishing groups against the North Carolina Division of Marine Fisheries (DMF), North Carolina Wildlife Resources Commission (WRC), and NOAA, seeks to require carrying out a stock assessment for sea turtles in North Carolina. The eventual outcome of that legal action is of course an open question, but if an effective and valid stock assessment of sea turtles is to be carried out, it would be nearly impossible without the people, expertise, and facilities currently in place at the NOAA Beaufort Laboratory, and trying to create that capacity from scratch would be prohibitive.

With offshore energy exploration and development proposed off of the North Carolina coast, both fossil fuels and wind, having a Federal marine science laboratory on site will be vital to monitor effects and to facilitate responses to adverse events if necessary. This is not the time to close down a venerable and vital marine science research facility in this area of critical biogeographic and economic importance.

PREPARED STATEMENT OF PATRICIA HARMS, MOREHEAD CITY, NORTH CAROLINA

The Subcommittee on Commerce, Justice, Science, and Related Agencies:

The Atlantic ocean off our East Coast is an irreplaceable treasure which requires our attention and care. The closure of the National Oceanic and Atmospheric Administration (NOAA) laboratory in Beaufort, North Carolina would be a tragic loss to the vital research it contributes on coastal and ocean issues. Please take this proposed closure out of the National Ocean Service (NOS) budget.

I cannot believe siphoning off projects to non-agency scientists could have the value we have right here, right now. Do look at the quality research that has come from the Beaufort NOAA Laboratory. This lab is in an excellent location, the only lab between New Jersey and Florida, collaborating with Duke University, North Carolina State, and University of North Carolina marine scientists. All of whom have facilities in Beaufort and Morehead City. They do work together which multiplies their value. With concerns over climate change and sea level rise, it would seem of even more importance to support NOAA in its present location. Hurricanes and weather related issues are also of great concern to our maritime and coastal areas. A number of ventures proposed off our coast such as sonic testing, oil exploration, and wind turbines will require monitoring of their effects on the ocean and its inhabitants. I would expect NOAA to be necessary to these and other possible changes in the ocean and in the estuaries.

It is true that we have tourism and beaches, but marine science is of great importance to our economy as well. Residents and tourists are very attuned to the work of marine scientists in the area. Volunteers walk the beaches to spot sea turtle nest sites, our citizens know that their observations of the ocean and sea life are important. We also have the Aquarium in Pine Knoll Shores, a renowned Maritime Museum in Beaufort, the Rachel Carson Reserve, and the Beasley Sea Turtle Hospital nearby, which relies on NOAA and other marine science institutions here. Both commercial and recreational fishermen also depend on NOAA. It has been averred that maintaining the lab would require too much in infrastructure costs, but according to more recent appraisals this is not the case. There is a 2014 engineering report listing improvements that have been made. The loss of the NOAA lab in Beaufort would be a serious blow to the area and to the country.

The NOAA lab in Beaufort should be supported and expanded, not removed.

PREPARED STATEMENT OF HOWARD F. HORTON, PH.D., PROFESSOR EMERITUS OF FISHERIES, OREGON STATE UNIVERSITY

Dear Senators:

This letter is to urge you to remove the closure of the Beaufort Laboratory in North Carolina from National Oceanic and Atmospheric Administration (NOAA's) National Ocean Service's budget request. I have had a long association with colleagues in the Beaufort Laboratory and consider their work to be essential to pro-

tecting and enhancing our marine species and their environment in coastal areas nationwide.

In particular, their pioneering work in developing methods to detect the presence of and to assess the impacts of toxic marine algae is vital to the production of our marine fauna and for the safety of human and other affected birds, fish and animals. This important research has application throughout the northern and southern hemispheres and is not duplicated elsewhere. To stop this activity would be a major setback to our knowledge and management of toxic marine algae.

In addition, the location of the laboratory fosters valuable research on sustainable fisheries; conservation of sea turtles, dolphins, seagrass estuaries, and offshore reefs; invasive species; and changes in climate and sea levels. These studies facilities and support research affecting not just North Carolina, but the East and West Coasts of the U.S. including Alaska.

Furthermore, the laboratory provides employment for approximately 108 scientists and staff to conduct this much needed research and their presence contributes over \$58 million to the local economy.

From the standpoint of its unique location, the cadre of excellent scientists producing much needed cutting edge science, and their contribution toward conserving our natural marine resources, I urge you to help support existence of this valuable research facility and its associated personnel.

PREPARED STATEMENT OF DR. DONALD E. HOSS, BEAUFORT, NORTH CAROLINA

Dear subcommittee members: My name is Don Hoss and I am writing this letter to strongly oppose the request by National Oceanic and Atmospheric Administration (NOAA)/National Ocean Service (NOS) to close the NOAA NOS/National Marine Fisheries Service (NMFS) laboratory in Beaufort, North Carolina (NOAA fiscal year budget summary, page 8, paragraph 3) because of the long-term cost of maintaining the facility. I was employed at the Beaufort Laboratory from 1958 until my retirement in 2002. I spent my last years as Director of the Laboratory, so I am familiar with the physical condition of the facility. I also know of its importance to the marine science community and the local and national community in general. The Beaufort Laboratory is the second oldest Federal Fisheries Laboratory in the United States dating to 1899. It was located at Beaufort because of the unique marine and estuarine ecosystem adjacent to the North Carolina coast. It is recognized as one of the most respected fisheries laboratories in this country, and in countries around the world, for the quality of its research on marine issues that affect the economy of sport and commercial fisheries, and the health of the marine waters of the United States.

Statements have been made that this "aging facility" requires infrastructure repairs and improvements exceeding agency budget. Nothing could be further from the truth. The fact that the Beaufort Laboratory is the second oldest Federal fisheries laboratory in the country does not mean that it is operating out of a 19th century facility. Only two buildings on the facility dates to the late 1950's and it has had many renovations over the years. In 1963 a new two story laboratory was built and it was completely renovated in 1993-94. In recent years NOAA has invested approximately \$14 million in new construction and renovations at the laboratory. A new administration building has been constructed with space for the North Carolina National Estuarine Research Reserve Program. The bridge to Pivers Island (cost shared with Duke Marine Laboratory) has been replaced and a new chemical storage building has been built. Other improvements include air conditioning/air handler replacement and mold abatement as well as seawall repair, electrical upgrade and State of North Carolina funded storm water control. An updated engineering report in 2014 documented that the Beaufort facility is NOT unsound.

In their closure request the National Ocean Service understated the number of Beaufort Laboratory employees that would be affected and the effect that it would have on them. They did not account for the more than 40 National Marine Fisheries Service staff or the 8 staff members of the North Carolina National Estuarine Research Reserve, located at the laboratory.

The current staffing at the Laboratory is as follows: 70 full-time Federal employees (39 National Marine Fisheries and 31 National Ocean Service staff); 32.5 contract positions (full and part time); and 6 North Carolina National Estuarine Research Reserve System (NERRS) staff. While the missions of the laboratory have been increased in recent years, the budget of the laboratory has decreased by approximately 30 percent and the NOS staff has decreased by 45 positions. NOS States that all full-time employees will be offered other positions so that none will lose their jobs due to the closure. This is of little comfort to the contract employees,

some of whom have worked at the facility for over 10 years. It is also not true (based on past experience) that all of the permanent employees will be able to move to other locations (due to various family matters) and, therefore, they will lose their jobs.

It is ironic that while the National Ocean Service, NOAA is calling for the closure of one of the most respected NOAA scientific laboratories in the country it is, at the same time, requesting an increase of \$4 million to another center (located in a more expensive region and in a non coastal area) to support the same type of research in which the Beaufort Laboratory is a recognized leader (see budget summary, page 8, paragraph 1).

In its 100 plus years the Beaufort Laboratory has established an extraordinary record for scientific excellence in its research in critical problems related to the public concern for coastal and ocean issues. This includes, but is not limited to, fisheries stock assessment (*i.e.* reef fish and menhaden), species distribution and life history, hypoxia, marine mammals and sea turtles, critical habitat evaluation, pollution effects (including oil spills) and harmful algal blooms to name a few.

NOAA has repeatedly recognized the laboratory, research teams and individual researchers for the outstanding quality of their work. It is hard to understand why NOAA would request an increase in funding for research in many of the above areas in fiscal year 2015 and then propose to close the Beaufort Laboratory, the very laboratory best positioned to do this research.

I urge you to reject the proposed closure of the NOAA Beaufort Laboratory. Should you have additional questions I would be more than happy to address them.

PREPARED STATEMENT OF THE INNOCENCE PROJECT

On behalf of the Innocence Project, thank you for allowing me to submit testimony to the Senate Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies as it considers budget requests for fiscal year 2015, and thank you for the subcommittee's support of innocence and forensic science research programs in fiscal year 2014. I write to request fiscal year 2015 funding for the following programs, please:

- \$4 million for the Wrongful Conviction Review and Capital Litigation Improvement Programs (the Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program), at the Department of Justice (DOJ), Bureau of Justice Assistance;
- \$4 million for the Kirk Bloodsworth Post-Conviction DNA Testing Program (the "Bloodsworth Program") at the DOJ, National Institute of Justice (NIJ);
- \$12 million for the Paul Coverdell Forensic Sciences Improvement Grant Program (the "Coverdell Program") at the NIJ;
- \$6 million for the Department of Justice to support the National Commission on Forensic Science; research at the National Institute of Justice; and related forensic science standards setting activities at the National Institute of Standards and Technology (NIST);
- \$11 million for NIST to support forensic science research and measurement science.

Freeing innocent individuals and preventing wrongful convictions through reform greatly benefits public safety. Every time DNA identifies a wrongful conviction, it enables the identification of the real perpetrator of those crimes. True perpetrators have been identified in approximately half of the over 300 DNA exoneration cases. Unfortunately, many of these real perpetrators had gone on to commit additional crimes while an innocent person was convicted and incarcerated in their place.

To date, 316 individuals in the United States have been exonerated through DNA testing, including 18 who served time on death row. These innocents served on average more than 13 years in prison before exoneration and release. However, I want to underscore the value of Federal innocence programs not to just these exonerated individuals, but also to public safety, fairness, and achieving true justice for victims of violent crimes. It is important to fund these critical innocence programs because reforms and procedures that help to prevent wrongful convictions enhance the accuracy of criminal investigations, strengthen criminal prosecutions, and result in a stronger, fairer system of justice that provides true justice to victims of crime.

WRONGFUL CONVICTION REVIEW PROGRAM

Particularly when DNA is not available, or when DNA alone is not enough to prove innocence, proving one's innocence to a level sufficient for exoneration is difficult compared to "simply" proving the same with DNA evidence. Innocents languishing behind bars require expert representation to help navigate the complex

issues that invariably arise in their bids for post-conviction relief. And the need for such representation is enormous when only a small fraction of cases involve evidence that could be subjected to DNA testing. (For example, it is estimated that among murders, only 10 percent of cases have the kind of evidence that could be DNA tested.) Realizing the imperative presented by such cases, the Bureau of Justice Assistance (BJA) dedicated part of its Capital Litigation Improvement Program funding to create the Wrongful Conviction Review program.¹ The program provides applicants—non-profit organizations and public defender offices dedicated to exonerating the innocent—with funds for providing high quality and efficient representation for potentially wrongfully convicted defendants in post-conviction claims of innocence. The program’s goals, in addition to exonerating the innocent, are significant: to alleviate burdens placed on the criminal justice system through costly and prolonged post-conviction litigation and to identify, whenever possible, the actual perpetrator of the crime.

Numerous local innocence projects have enhanced their caseloads and representation of innocents as a result of the Wrongful Conviction Review grant program, including those in Florida, Ohio, and in North Carolina at Duke University School of Law. The Reinvestigation Project, run through the Office of the Appellate Defender in New York, used funding that led to the exonerations of Latisha Johnson and Malisha Blyden and the identification of one of the real perpetrators. The Arizona Justice Project recently exonerated four innocent Arizonians who had served over a combined 100 years. The Exoneration Initiative in New York, cleared a backlog of hundreds of cases which allowed them to secure three exonerations and provided critical support that led to two other exonerations. The grant also helped California Innocence Project (CIP) free Daniel Larsen after 13 years in prison, and helped Hawaii Innocence Project recently secure the release of the first Native Hawaiian exonerated by DNA testing.

To help continue this important work, we urge you to please provide a total of \$4 million for the Wrongful Conviction Review and the Capital Litigation Improvement Programs to help bring them to parity with the critical Bloodsworth Program, that focuses on post-conviction DNA testing and cases. (The Wrongful Conviction Review Program is a part of the Capital Litigation Improvement Program.)

THE BLOODSWORTH PROGRAM

The Bloodsworth Program provides hope to innocent inmates who might otherwise have none by helping States more actively pursue post-conviction DNA testing in appropriate situations. These funds have led to great success, and many organizational members of the national Innocence Network have partnered with State agencies that have received Bloodsworth funding.²

The Bloodsworth Program does not fund the work of organizations in the Innocence Network directly, but State applicants which seek support for a range of entities involved in settling innocence claims, including law enforcement agencies, crime laboratories, and a host of others—often in collaboration with each other, and with Innocence Network organizations. For example, a Bloodsworth grant allowed the Arizona Attorney General’s Office to partner with the Arizona Justice Project to canvass the Arizona inmate population, review cases, locate evidence and file joint requests with the court to have evidence released for DNA testing. In addition to identifying the innocent, Arizona Attorney General Terry Goddard has noted that the “grant enable[d] [his] office to support local prosecutors and ensure that those who have committed violent crimes are identified and behind bars.”³ Such joint efforts have also been pursued in Connecticut, Louisiana, Minnesota, North Carolina, and Wisconsin.

The Bloodsworth program is a relatively small yet powerful investment for States seeking to free innocent people who were erroneously convicted and to identify the true perpetrators of crime. The program has resulted in the exonerations of 22 wrongfully convicted persons in 10 States, and the true perpetrator was identified in 8 of those cases. We ask that you please provide \$4 million to continue the work of the Bloodsworth Post-Conviction DNA Testing Program.

¹Reauthorization of the Innocence Protection Act. 111th Cong., 1st Sess., 8 (2009) (testimony of Lynn Overmann, Senior Advisor, Office of Justice Programs).

²The Innocence Network is an affiliation of organizations dedicated to providing pro bono legal and investigative services to individuals seeking to prove innocence of crimes for which they have been convicted and working to redress the causes of wrongful convictions.

³Arizona receives Federal DNA grant, <http://community.law.asu.edu/news/19167/Arizona-receives-Federal-DNA-grant.htm> (last visited Mar. 13, 2012).

THE COVERDELL PROGRAM

Recognizing the need for independent government investigations in the wake of forensic scandals, Congress created the forensic oversight provisions of the Coverdell Program, a crucial step toward ensuring the integrity of forensic evidence. Specifically, in the Justice for All Act, Congress required that

[t]o request a grant under this subchapter, a State or unit of local government shall submit to the Attorney General . . . a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.⁴

The Coverdell Program provides State and local crime labs and other forensic facilities with much needed funding to efficiently and effectively carry out their work. As forensic science budgets find themselves on the chopping block in States and localities, the survival of many crime labs may depend on Coverdell funds. To both support crime labs and help ensure the integrity of forensic investigations in the wake of allegations of negligence or misconduct, we ask that you please provide \$12 million for the Coverdell Program.

FORENSIC SCIENCE IMPROVEMENT

To continue the critical work to improve forensic science, and help prevent wrongful convictions, we request:

- \$6 million for the Department of Justice, including:
 - \$1 million for the DOJ–NIST National Commission on Forensic Science to continue its work.
 - \$2 million for the National Institute of Justice to conduct laboratory efficiency and implementation research in this area.
 - \$3 million to go to NIST to support technical standards development in forensic science through the proposed Organization of Scientific Area Committees.
- \$11 million for the National Institute of Standards and Technology (NIST) at the Department of Commerce. As the sole entity that is both perfectly positioned and capable of conducting measurement science and foundational research in support of forensic science, NIST's work will improve the validity and reliability of forensic evidence, a need cited by the National Academy of Sciences 2009 report, "Strengthening Forensic Science in the United States: A Path Forward." NIST's reputation for innovation will result in technological solutions to advance forensic science applications and achieve a tremendous cost savings by reducing court costs posed by litigating scientific evidence and re-directing resources to identifying the true perpetrators of crime.

ADDITIONAL NOTE ON THE DEPARTMENT OF JUSTICE'S BUDGET REQUESTS

DOJ's fiscal year 2015 budget proposal, as it has in past years, would defund the Coverdell and Bloodsworth Programs. Zeroing out these programs would negatively impact the State requirements and incentives to prevent wrongful convictions and ensure the integrity of evidence, which have been critical to the advancement of State policies to prevent wrongful convictions. Coverdell forensic oversight requirements have created State entities and processes for ensuring the integrity of forensic evidence in the wake of scandal and are essential to ensuring the integrity of forensic evidence in the wake of identified acts of negligence or misconduct. Innocence Project recommends that Congress fund these two programs by name, in order to preserve their important incentive and performance requirements, and to help to achieve their goals of providing access to post-conviction DNA testing and supporting State and local crime labs that process a significant amount of forensic evidence, helping to ensure public safety.

Thank you so much for your time and consideration of these important programs, and the opportunity to submit testimony. We look forward to working with the subcommittee this year.

⁴ 42 U.S.C. § 3797k(4) (emphasis added).

PREPARED STATEMENT OF THE INSTITUTE OF MAKERS OF EXPLOSIVES

INTEREST OF THE IME

IME is a nonprofit association founded over century ago to provide accurate information and comprehensive recommendations concerning the safety and security of commercial explosive materials. IME represents U.S. manufacturers, distributors and motor carriers of commercial explosive materials and oxidizers as well as other companies that provide related services. The majority of IME members are “small businesses” as determined by the U.S. Small Business Administration.

Millions of metric tons of high explosives, blasting agents, and oxidizers are consumed annually in the United States. IME member companies produce 99 percent of these commodities. These products are used in every State and are distributed worldwide. The ability to manufacture, distribute and use these products safely and securely is critical to this industry.

Commercial explosives are highly regulated by a myriad of Federal and State agencies. ATF plays a predominant role in assuring that explosives are identified, tracked, purchased, and stored only by authorized persons. We offer the following comments to give perspective about the need to ensure that ATF has sufficient funds to carry out its mission to ensure that commercial explosives are not misappropriated for criminal or terrorist purposes.

ATF'S EXPLOSIVES REGULATORY PROGRAM

The administration's fiscal year 2015 budget request envisions a current services appropriation for explosives industry operations. We understand the current pressure to reduce the Federal budget deficit and the shared sacrifice that all segments of the Government are being asked to make to help the economy recover. We also understand the public attention to other programmatic responsibilities of ATF, and the attendant pressure to divert resources to these responsibilities. However, the success of the Bureau's explosives industry programs in preventing the misappropriation of commercial explosives should not be used against us. ATF needs to retain a cadre of trained personnel to perform services needed by our industry. The commerce of explosives is so closely regulated that failure to provide adequate personnel and resources hurts our industry, our customers, and the U.S. economy.

By law, ATF must inspect over 11,000 explosives licensees and permittees at least once every 3 years and conduct background checks of so-called “employee possessors” of explosives and “responsible persons.”¹ ATF estimates that the requirement to inspect 100% of the licensees and permittees within their 3-year license/permit cycle consumes between 25 percent and 41 percent of available inspector resources per year.

Unfortunately, ATF's fiscal year 2015 budget submission does not provide retrospective workload indicators such as the number of compliance inspections that were accomplished, the number of public safety violations, and what those violations were in fiscal year 2013. This data have been provided in prior budget submissions. In fiscal year 2014, ATF reported that, during fiscal year 2012, it:

- Conducted 5,390 explosives licensee and permittee compliance inspections that identified and corrected 1,528 public safety violations;
- Completed 1,249 Federal Explosive License (FEL) applicant inspections;
- Processed 4,222 FEL applications (new & renewal);
- Completed 77,965 explosives employee/possessor background checks; and
- Completed 12,188 explosives responsible persons background checks.²

We are certain that the subcommittee appreciates the need for annual reporting of these workload indicators to establish trend-lines that may point to new resource needs or reallocation and whether or not new safety concerns are being recognized. For example, we are very interested in understanding what public safety violations were found in past inspections. This data helps us to determine whether we need to enhance our industry best practices. Looking at ATF's fiscal year 2013 and 2014 budget submissions, the Bureau identified 1,392 public safety violations during fiscal year 2011,³ and, as noted above, during fiscal year 2012, this number rose to 1,528. The subcommittee should direct ATF to consistently report this data in future budget submissions.

ATF did report that, in 2011, it met its statutory responsibilities 95.8 percent of the time, and in 2012, 105.7 percent of the time. However, in 2013, this performance rate fell to 88.2 percent. With the budget agreement enacted earlier this year, ATF

¹ Fiscal year 2015 ATF Budget Submission, page 15.

² Fiscal year 2014 ATF Budget Submission, page 26.

³ Fiscal year 2013 ATF Budget Submission, page 42.

estimates that its productivity will increase to 92 percent in 2014 and has set a target of 94 percent in 2015, which, while it represents an improvement over the 2013 number, is still not optimum.⁴ When ATF is unable to meet its responsibilities, there are adverse impacts on our industry. Without approved licenses and permits from ATF, our industry cannot conduct business. Delays in servicing our needs may lead to disruptions in other segments of the economy that are dependent on the products and materials we provide.

One key workload indicator is the number of background checks performed. One component of this investigation is determining whether any of our employees have terrorist ties. To make that determination, ATF submits names to the FBI to be run against the Terrorist Screening Database (TSDB). Currently, ATF does not follow the common practice of other Federal agencies with vetting programs that re-vet names at will. Rather, the agency runs the names in association with applications for new or renewal of "FELs" or Federal explosives permits. Because ATF does not re-vet names when information on the TSDB changes, ATF's program is not deemed equivalent to the vetting and clearance procedures used by other agencies. Harmonizing ATF's procedures with those used by these other programs will allow ATF's vetting program to be reciprocally recognized by these programs. This outcome would add intelligence value to all Government vetting programs sharing the same platform, and provide savings to the Federal Government and the regulated community. We urge the subcommittee to encourage ATF to enhance its vetting procedures.

As the subcommittee considers ATF's budget request, we ask that the Bureau's ability to perform its regulatory oversight of the explosives industry in a timely fashion not be compromised in the push for fiscal discipline and that it be given the resources to preform to current state-of-the-art oversight practices.

ATF'S REGULATORY WORKLOAD

Since 2003 when ATF was transferred to the Department of Justice, the agency has issued eight rulemakings of importance to IME, including two which were interim final rules. It has finalized three, withdrawn two, merged two, and docketed but not published three. Of the four rulemakings still pending, one is an interim final rule which dates to 2003. In the absence of a process to ensure timely rule-making that is capable of keeping up with new developments and safety practices, industry must rely on interpretive guidance and variances based on outdated requirements in order to conduct business. While we greatly appreciate ATF's accommodations, these stop-gap measures do not afford the surety, continuity and protections that rulemaking would provide the regulated community, nor do they allow the oversight necessary to ensure that all parties are being held to the same standard of compliance. These regulatory tasks are critical to the lawful conduct of the commercial enterprises that the Bureau controls. ATF should be provided the resources needed to make timely progress in this area.

ATF is also a key member of the Interagency Working Group (IWG) convened under Executive Order (EO) 13650.⁵ The EO tasked the IWG with identifying options to improve chemical security and safety after the tragic accidental explosion in West, TX as well as other recent industrial chemical accidents. Earlier this year, the IWG presented options for stakeholder comment.⁶ Among these options, several pertain to ATF.

- ATF asks whether it should close the regulatory gap surrounding black and smokeless powder. An examination of information from the Bomb Data Center (BDC) on the type and frequency of fillers used in bombings and attempted bombings supports closing this regulatory gap. It makes little sense to impose stringent controls on the explosives industry only to allow a consumer exemption that can be exploited by those with criminal or terrorist intent.
- The IWG also asks about updating its regulatory requirements for physical security at magazines. IME supports ATF's consideration of the adequacy of current locking standards,⁷ and supports the development of a rule on magazine key control. IME is ready to assist in any other research projects to help achieve our common goal of ensuring magazine integrity and security.
- The EO also directs ATF to determine the feasibility of sharing information with States and localities. While we oppose the sharing of security-sensitive information about explosives in public forums, we do support enhancing commu-

⁴ Fiscal year 2015 ATF Budget Submission, page 18.

⁵ <http://www.whitehouse.gov/the-press-office/2013/08/01/executive-order-improving-chemical-facility-safety-and-security>.

⁶ https://www.osha.gov/chemicalexecutiveorder/Section_6ai_Options_List.html.

⁷ A study on this topic was conducted by an IME member company, and the results were reported at an IME meeting where ATF officials were in attendance.

nications with local emergency responders. Specifically, we support annual FEL reporting to local fire safety authorities of the type, capacity, and location of magazines where explosives are stored. Current rules require a one-time notification.⁸

Each of these options, if pursued, would add to ATF's regulatory workload. ATF should have the resources to keep its regulations up to date.

ATF-INDUSTRY PARTNERSHIP

The BDC is the sole repository for explosives-related incident data, and contains information on thousands of explosives incidents investigated by ATF and other Federal, State, and local law enforcement agencies. While this data helps government entities to perform trend analysis and to compare incidents for similarities and crime methodologies, BDC data also helps our efforts to refresh and update best practice recommendations. Until 2006, this data was routinely provided to industry stakeholders. We are pleased that after an 8-year hiatus, ATF has again provided the regulated community with key data on bomb and improvised device fillers, as well as information on thefts, losses and recoveries categorized by the type and amount of explosives involved. The data also indicates the point in the supply chain where the reported thefts and losses occurred. ATF has committed to releasing this data on an annual basis and it needs the resources to continue this important service.

Explosives manufacturers and importers are required to mark products with codes to aid domestic and foreign law enforcement agencies in tracing these materials if they are lost or stolen. Explosives manufacturers and importers and others in the global supply chain cooperate in tracing efforts. However, various government entities are imposing their own unique system of identification marks without reciprocally recognizing each other's marks. These redundant and competing marks are creating non-tariff barriers to trade. We have petitioned the United Nations to help develop a harmonized marking scheme and expect this issue to be considered by the international community at meetings in July 2014. We have asked ATF to join with us in working to harmonize a global marking standard.

Since 2003, ATF, with our support, has required background checks of persons authorized to possess explosives. While, as noted above, this background check includes vetting against the TSDB, being named on the database does not disqualify individuals from possessing explosives. We think this is an oversight. The late-Senator Frank Lautenberg and Representative Peter King introduced legislation, S. 34 and H.R. 720, respectively, to close this glaring security gap in the Federal explosives law. This legislative change, advocated by both Presidents Bush and Obama, will better harmonize the vetting and clearance procedures used by the ATF with other government agencies that perform security threat assessments of individuals seeking to engage in security-sensitive activities. As these standards are harmonized, opportunities to leverage other vetting programs and security credentials increase. This outcome would add intelligence value to all government vetting programs sharing the same platform, and provide savings to the Federal Government and the regulated community.

Each of these collaborative initiatives requires resources. We request that ATF be given the requisite funds to advance these initiatives.

INDUSTRY STANDARDS

We take seriously the statutory obligation that ATF take into account industry's standards of safety when issuing rules and requirements.⁹ We continue to fulfill this obligation through our development of industry best practices for safety and security, membership in relevant standard-setting organizations, and active participation in forums for training. We have offered to ATF recommendations that we believe will enhance safety and security through our participation in the rulemaking process, in the Bureau's important research efforts, and in other standard-setting activities.

In this regard, IME has spent years developing a credible alternative to strict interpretation of quantity distance tables used to determine explosives setback distances. IME continues to collaborate in this effort with the Department of Defense Explosives Safety Board as well as Canadian and U.S. regulatory agencies, including ATF. The result is a windows-based computer model for assessing the risk from

⁸ 27 CFR 555.210(f).

⁹ 18 U.S.C. 842(j).

a variety of commercial explosives activities called IMESA¹⁰ ATF and other regulatory agencies recognize the value of IMESA¹⁰ ATF and have participated in development meetings for Version 2.0. ATF is also evaluating existing licensed locations with this risk-based approach and has agreed to accept variance requests based on IMESA¹⁰ ATF evaluations. These efforts are vital if ATF is to remain at the forefront of technologies designed to safeguard the public. We strongly encourage ATF's continued support of this project. The benefits of risk-based modeling should continue to be recognized by ATF and resources should be provided to develop policies that allow the use of such models to meet regulatory mandates.

CONCLUSION

The manufacture and distribution of explosives is accomplished with a remarkable degree of safety and security. We recognize the critical role ATF plays in helping our industry achieve and maintain safe and secure workplaces. Industry and the public are dependent on ATF having adequate resources to fulfill its regulatory responsibilities. It is up to Congress and, in particular, this subcommittee to ensure that ATF has the resources it needs. We strongly recommend full funding for ATF's explosives program.

PREPARED STATEMENT OF DANIEL JENSEN, MOREHEAD CITY, NORTH CAROLINA

I am writing to specifically discuss the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory located in Beaufort, North Carolina. The lab is part of the Department of Commerce, National Oceanic and Atmospheric Administration and houses employees of the National Marine Fisheries Service (NMFS), National Ocean Service (NOS), and National Estuarine Research Reserve (NERR).

I urge the proposed closure of NOAA's Beaufort Laboratory be removed from the NOS budget. Currently, the lab houses 108 employees from NMFS, NOS, and NERR. The costs associated with upkeep and maintenance of the lab were inaccurate and outdated in the NOAA explanation of budgetary items. There were mistakes in the number of employees at the facility and incorrect calculations used to detail the budget item. In the past several years, several activities have been completed to keep the facility in good working condition including the replacement of the administration building and maintenance building, replacement of the bridge to the facility, seawall repair, improvements to the air conditioning, and other improvements, which totaled approximately \$14 million. Finally, an updated engineering report (2014) documents that the facility is NOT structurally unsound.

Closing the Beaufort Lab would be a tragedy. The Beaufort Lab is a stalwart of fisheries and oceanic science that has produced many well known scientists. The Beaufort Lab has a good reputation for advancing science in population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; pathogens; and snapper and grouper species. NOAA has repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for the outstanding quality of scientific work completed. Several of the area fisheries labs have located in Beaufort due to the NOAA lab including Duke Marine Lab, North Carolina Division of Marine Fisheries, the Center for Marine Sciences and Technology (CMAST), and the Institute of Marine Science. The NOAA Beaufort Laboratory is the center of productive fisheries science informing fisheries management for the Atlantic and Gulf coasts and is currently the only NMFS lab between Sandy Hook, New Jersey, and Miami, Florida.

Specific items of note from each line office include:

NMFS

Stock Assessment Science

—The NOAA Beaufort Laboratory provides the stock assessment science that determines how many fish can be caught in the southeast United States.

¹⁰ IMESA¹⁰ ATF was built on the DDESB's software model, SAFER. The DDESB currently uses SAFER and table-of-distance methods to approve or disapprove Department of Defense explosives activities. Not only can IMESA¹⁰ ATF determine the amount of risk presented, but it can also determine what factors drive the overall risk and what actions would lower risk, if necessary. The probability of events for the activities were based on the last 20 years of experience in the U.S. and Canada and can be adjusted to account for different explosive sensitivities, additional security threats, and other factors that increase or decrease the base value.

The stock assessment science of the NOAA Beaufort Laboratory focuses on marine fish populations that are ecologically and economically vital to the region and Nation, including snapper-grouper and pelagic species managed by the South Atlantic Fishery Management Council, Atlantic menhaden managed by the Atlantic States Marine Fisheries Commission, and Gulf menhaden managed by the Gulf States Marine Fisheries Commission. Commercial landings from the South Atlantic have been valued at \$176.5 million, supporting a centuries-old cultural way of life, and salt-water recreational fishing in this region tops the Nation for its economic impact on sales and jobs (East Florida and North Carolina generate \$5.3 billion and 47,000 jobs). Atlantic menhaden support the largest fishery on the U.S. east coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico, with a combined value of \$127.7 million.

Fishery-Independent Surveys

—Fishery-independent surveys collect data on fish populations for stock assessments and research, using standardized sampling gears and methodologies.

The Southeast Fishery-Independent Survey (SEFIS), run out of the NOAA Beaufort lab, collects annual information on the abundance, distribution, sizes, and ages of economically-important reef fish species like groupers and snappers on the U.S. East Coast between North Carolina and Florida. Using fish traps and underwater video, SEFIS determines whether reef fish species are increasing or decreasing in abundance so fish stocks can be managed with much greater certainty. The SEFIS staff has developed a close working relationship with fishermen in the Carolinas due to their co location in Beaufort, North Carolina. NOAA's Beaufort Lab is ideally situated, centered in the middle of substantial commercial and recreational fishing industries and a thriving marine science community. If the SEFIS staff was forced to move out of their survey region, ties with the fishing industry and the marine science community would be effectively severed, ultimately resulting in a significant disconnect between the National Marine Fisheries Service and the communities to which they serve.

NERR

Impacts of Closure to the Reserve-Strategic Location and Facility for the Reserve:

—North Carolina Coastal Reserve and National Estuarine Research Reserve staff (7) are currently located at the NOAA Beaufort Lab, which serves as the headquarters office for the program.

—In 2002, Congress provided NOAA with “. . . \$5,000,000 for the Beaufort Laboratory for necessary repairs to existing facilities and to construct a joint laboratory, dock, and other facilities in collaboration with the Rachel Carson National Estuarine Research Reserve.” (Public Law 107–77, See S.Rept. 107–42, p. 106–108.) \$1.32 million was invested in NOAA (\$1.28 million) and State funds (\$42,046) for the construction of a joint building at the NOAA Beaufort Lab to serve the Reserve's mission.

—The joint building was completed in 2007 and was constructed specifically with the Reserve's education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities.

—The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve; this close proximity is essential for conducting Reserve activities efficiently to conduct mission-critical programming including educational programs, water quality and habitat monitoring and research programs, and stewardship of the site including species monitoring, debris clean-ups, feral horse management, and access point maintenance.

Reserve Activities at the NOAA Beaufort Lab, 2008–2013

Education

K–12 field trips

—177 educational programs

—4947 participants

Teacher workshops

—28 teacher workshops

—412 participants

Summer camps

—109 camp sessions

—921 participants

- Summer public field trips*
 - 96 field trips
 - 1123 participants
- Stewardship
 - Volunteer service at the Rachel Carson Reserve*
 - 1170 volunteers
 - 2873 volunteer hours
 - Site management*
 - The NOAA Beaufort Lab provides an ideal base from which to manage the Rachel Carson Reserve due to its close proximity to the Reserve site, location on calm inland waters, and boat launching facilities. Additionally, many NOAA staff conduct or have conducted research at the Rachel Carson Reserve and are able to provide professional perspectives that are valuable to Reserve research and management.
- Research
 - Research permits*
 - 31 research permits issued for research conducted at the Rachel Carson Reserve
 - Water quality monitoring*
 - Water quality inventory and monitoring stations at Middle Marsh and Shackleford Banks, in partnership with the National Park Service
- Coastal Training Program
 - Coastal Training Program workshops*
 - 31 workshops
 - 1076 participants

NOS

NOAA's HAB program was initiated at the Beaufort Laboratory from the work conducted in North Carolina in 1987 during the "red tide" that affected the central coast for more than 6 months. The Beaufort Lab continues to provide essential research and field data that inform Ecological Forecasting of HABs in Alaska, North Carolina, Florida, Guantanamo Bay, Cuba, Bay of Fundy, Gulf of Maine, Gulf of Mexico, and the Caribbean. Additionally, Beaufort Laboratory staff were recognized for conducting award winning science in elucidating the life history of *Pfiesteria*, a HAB species that inhabits estuaries and river systems up and down the eastern seaboard. The threat of *Pfiesteria* caused economic damages of ~\$35 million a month to the seafood industry following publicity of local fish kills. Beaufort laboratory staff provided expertise and knowledge to local and State resource managers and University partners to educate the public about the real facts concerning *Pfiesteria* and the safety of their seafood. Beaufort staff have continued to provide their expertise and knowledge to the North Carolina River Keeper Alliance and North Carolina Department of Natural Resources, Division of Water Quality when fish kill events have occurred in local estuaries. This has helped to alleviate public anxiety regarding seafood safety.

In conclusion, closure of the NOAA Beaufort Laboratory would be a poor choice scientifically, economically, and would leave a large part of the east coast without the science that they deserve. The numbers used to estimate the costs of maintaining the facility in good working order were incorrectly estimated and inaccurate numbers of current employees were provided for the budget. In addition, the Federal Government has invested in this laboratory over the long-term, and to close it now would be a gross misuse of Government resources.

PREPARED STATEMENT OF NANCY JENSEN, MOREHEAD CITY, NORTH CAROLINA

I am writing to specifically discuss the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory located in Beaufort, North Carolina. The lab is part of the Department of Commerce, National Oceanic and Atmospheric Administration and houses employees of the National Marine Fisheries Service (NMFS), National Ocean Service (NOS), and National Estuarine Research Reserve (NERR).

I urge the proposed closure of NOAA's Beaufort Laboratory be removed from the NOS budget. Currently, the lab houses 108 employees from NMFS, NOS, and NERR. The costs associated with upkeep and maintenance of the lab were inac-

curate and outdated in the NOAA explanation of budgetary items. There were mistakes in the number of employees at the facility and incorrect calculations used to detail the budget item. In the past several years, several activities have been completed to keep the facility in good working condition including the replacement of the administration building and maintenance building, replacement of the bridge to the facility, seawall repair, improvements to the air conditioning, and other improvements, which totaled approximately \$14 million. Finally, an updated engineering report (2014) documents that the facility is NOT structurally unsound.

Closing the Beaufort Lab would be a tragedy. The Beaufort Lab is a stalwart of fisheries and oceanic science that has produced many well known scientists. The Beaufort Lab has a good reputation for advancing science in population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; pathogens; and snapper and grouper species. NOAA has repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for the outstanding quality of scientific work completed. Several of the area fisheries labs have located in Beaufort due to the NOAA lab including Duke Marine Lab, North Carolina Division of Marine Fisheries, the Center for Marine Sciences and Technology (CMAST), and the Institute of Marine Science. The NOAA Beaufort Laboratory is the center of productive fisheries science informing fisheries management for the Atlantic and Gulf coasts and is currently the only NMFS lab between Sandy Hook, New Jersey, and Miami, Florida.

Specific items of note from each line office include:

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The Southeast Fishery-Independent Survey (SEFIS), run out of the NOAA Beaufort lab, collects annual information on the abundance, distribution, sizes, and ages of economically-important reef fish species like groupers and snappers on the U.S. East Coast between North Carolina and Florida. Using fish traps and underwater video, SEFIS determines whether reef fish species are increasing or decreasing in abundance so fish stocks can be managed with much greater certainty. The SEFIS staff has developed a close working relationship with fishermen in the Carolinas due to their co location in Beaufort, North Carolina. NOAA's Beaufort Lab is ideally situated, centered in the middle of substantial commercial and recreational fishing industries and a thriving marine science community. If the SEFIS staff was forced to move out of their survey region, ties with the fishing industry and the marine science community would be effectively severed, ultimately resulting in a significant disconnect between the National Marine Fisheries Service and the communities to which they serve.

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tional Estuarine Research Reserve.” (Public Law 107–77, See S.Rept. 107–42, p. 106–108.) \$1.32 million was invested in NOAA (\$1.28 million) and State funds (\$42,046) for the construction of a joint building at the NOAA Beaufort Lab to serve the Reserve’s mission.

- The joint building was completed in 2007 and was constructed specifically with the Reserve’s education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities.
- The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve; this close proximity is essential for conducting Reserve activities efficiently to conduct mission-critical programming including educational programs, water quality and habitat monitoring and research programs, and stewardship of the site including species monitoring, debris clean-ups, feral horse management, and access point maintenance.

Reserve Activities at the NOAA Beaufort Lab, 2008–2013

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Summer public field trips

- 96 field trips
- 1123 participants

Stewardship

Volunteer service at the Rachel Carson Reserve

- 1170 volunteers
- 2873 volunteer hours

Site management

- The NOAA Beaufort Lab provides an ideal base from which to manage the Rachel Carson Reserve due to its close proximity to the Reserve site, location on calm inland waters, and boat launching facilities. Additionally, many NOAA staff conduct or have conducted research at the Rachel Carson Reserve and are able to provide professional perspectives that are valuable to Reserve research and management.

Research

Research permits

- 31 research permits issued for research conducted at the Rachel Carson Reserve

Water quality monitoring

- Water quality inventory and monitoring stations at Middle Marsh and Shackleford Banks, in partnership with the National Park Service

Coastal Training Program

Coastal Training Program workshops

- 31 workshops
- 1076 participants

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In conclusion, closure of the NOAA Beaufort Laboratory would be a poor choice scientifically, economically, and would leave a large part of the east coast without the science that they deserve. The numbers used to estimate the costs of maintaining the facility in good working order were incorrectly estimated and inaccurate numbers of current employees were provided for the budget. In addition, the Federal Government has invested in this laboratory over the long-term, and to close it now would be a gross misuse of Government resources.

PREPARED STATEMENT OF DR. DAVID F. JOHNSON, FORMER DIRECTOR OF THE NOAA
BEAUFORT LABORATORY (RETIRED)

Testimony.—My statement is submitted in strong and direct opposition to the closure of the National Oceanic and Atmospheric Administration (NOAA) marine science laboratory located in Beaufort, North Carolina, as is presently proposed in the President's fiscal year 2015 Budget for:

- NOAA
- National Ocean Service (NOS)
- Coastal Science, Assessment, Response and Restoration:
 - National Centers for Coastal Ocean Science (NCCOS), (NOAA Blue Book, page 8), the cost is not specified in the Budget document.

The recommendation to close this laboratory is based on dated and faulty information, and has not been well justified in the administration's budget. I respectfully request this subcommittee to consider:

- directing NOAA's National Ocean Service to withdraw the request for closure of the Beaufort Laboratory, and
- prevent the National Ocean Service from withdrawing support, leading to an operational failure of the Laboratory.

The balance of my statement will provide greater detail and justification for this position.

The Beaufort Laboratory (the formal name is the NOAA, NOS, Center for Coastal Fisheries and Habitat Research located in Beaufort, North Carolina) is the second oldest Federal marine laboratory in the U.S., founded in 1899. This national laboratory is a prime location for marine science and provides the only Federal access to the most diverse marine ecosystem in the U.S. Within a short distance of the Beaufort Laboratory, ecological communities can be accessed which represent the northern extent of southern species and the southern extent of northern species. Offshore and adjacent to the Gulf Stream are reef communities representative of tropical environments. This location provides access to a ready supply of clean, high salinity, seawater which is so essential to marine cultures. In addition, this location provides ship access through a deep water inlet. I submit this location is an asset which should not be abandoned by NOAA.

In the budget request, the National Ocean Service proposes "to reduce its physical footprint and fixed costs by closing the Beaufort North Carolina laboratory". A NOAA spokeswoman in Maryland, Ciaran Clayton (Director of Communications and External Affairs), was quoted in our local newspaper: "this aging facility requires infrastructure repairs and improvements exceeding agency budget resources. . . ." In subsequent discussions and clarifications for this budget, it seems this argument forms the basis for the requested closure. This argument is based on outdated information. A recent engineering survey indicates some previously reported structural concerns were minor and easily addressed without major cost. Please also be informed NOAA has been slowly upgrading the facility. In recent years, NOAA has provided approximately \$14.5 million in infrastructure improvements, including three new buildings and a new bridge. In fact, NOAA just initiated a new construction project at the Beaufort Laboratory with more than a million dollars in funding. Under these present circumstances, closure would be a waste of recent Federal funding.

The proposal for closure was revealed to the Laboratory's partners and public with the release of the President's budget for 2015. This was a surprise to the National Marine Fisheries Service (NMFS), NERRS and contract partners using the facility, and the many State and academic partners involved in joint scientific efforts. I am unaware of formal efforts to evaluate the costs and impacts of such a closure on these many partner organizations. The loss of the ongoing activities at the Laboratory and the disruption to partner activities will have effects which will ripple across numerous agencies and programs. This lack of evaluation seems programmatically and scientifically irresponsible.

The Beaufort Laboratory has a long and extraordinary record for scientific excellence. The laboratory employs a number of internationally and nationally known scientists, who are providing support essential to international, U.S., and North Carolina issues. Without this ongoing support, NOAA programs like Harmful Algal Blooms, ecosystem forecasting and invasive species (lionfish) will be severely impacted. NMFS programs which, among others, represent management and recovery of key commercial species (snapper, grouper, menhaden) will be disrupted. The pioneering and essential work of these research teams (composed of leading scientists, junior scientists, technicians and essential support staff) will be terminated with the dissolution or dispersal of the teams. I am unaware of any NOAA efforts to evaluate the impacts to the many scientific programs through the loss of this scientific prestige.

The local community will be severely impacted. The laboratory provides jobs for 108 people who include not only NOAA, but also State and private partners. Beaufort is a small community which would be heavily impacted by the economic losses associated with these jobs, and those of related family members. I am unaware of any analysis of the economic impacts to the community.

The large Government investment in scientific equipment would be underutilized or wasted. The laboratory contains a large and diverse array of scientific equipment which cannot be maintained or effectively used with closure, or the loss of highly specialized support staff. I am unaware of any evaluation of the disposition of this equipment and the support requirements.

The cost to provide laboratory and office space at Beaufort is cheaper than most areas of the United States. With tightening budgets, it would seem to make more sense to relocate employees to Beaufort. From this location, NOAA scientists would have access to facilities, equipment and ecosystems which are unavailable where many NOAA scientists are presently located.

In summary, this proposal is ill conceived and not supported by any reasonable evaluation of the circumstances. I urge your subcommittee to oppose the closure of the Beaufort Laboratory.

PREPARED STATEMENT OF THE JOINT OCEAN COMMISSION INITIATIVE

Chairwoman Mikulski, Ranking Member Shelby, and other distinguished Members of the Subcommittee on Commerce, Justice, Science, and Related Agencies, we thank you for the opportunity to submit written testimony regarding the fiscal year 2015 Commerce, Justice, Science, and Related Agencies appropriations bill.

The Joint Ocean Commission Initiative, a collaborative, bipartisan effort to catalyze ocean policy reform, urges incremental but significant increases for programs necessary to understand, protect, and restore our oceans and coasts, so vital to our Nation's economy and security. In particular we ask you to continue the progress made in the President's fiscal year 2015 budget request and provide \$5.6 billion for NOAA to protect those core programs that sustain our oceans.

We greatly appreciate your strong support of ocean and coastal issues over many years, and we understand the difficult choices made each year regarding scarce resources to address critically important issues under your jurisdiction. Our written testimony covers the following issues: coastal resilience; ocean observations; ocean acidification; STEM consolidation; ocean exploration; science, research, and education; and the Arctic.

COASTAL RESILIENCE

The Joint Initiative strongly supports the Regional Coastal Resilience Grant program in NOAA's fiscal year 2015 budget, and we ask that you consider funding this program at \$10 million, a \$5 million increase from the President's fiscal year 2015 proposal. This program can provide competitive funding to support multi-State regional ocean partnerships that coordinate data sharing and decisionmaking across jurisdictions, implement innovative solutions to shared priorities, and effectively engage ocean and coastal stakeholders.

These partnerships are critical as coastal States and communities confront challenges such as ocean acidification, sea level rise, growing ocean uses, burgeoning populations, and increasing threats from extreme weather events. Resilient coastal communities are not only able to minimize loss and negative impacts to life, property, and the coastal ecosystem, they are also able to quickly return residents to productive activities and restore essential services. This is imperative to facilitating full and timely economic, social, and environmental recovery. Recognizing the importance of regional solutions, Governors have already joined together to share information and coordinate with Federal agencies, businesses, nongovernmental organizations, and local governments to better adapt to changes underway in our oceans and on our coasts.

Funding the Regional Coastal Resilience Grant program at \$10 million will still only address a small fraction of the demand, but it will enable partnerships to more efficiently apply limited resources to ensure the health of our oceans and coasts.

SUSTAINED OCEAN OBSERVATIONS

Sustained observations are vitally important to ensure coastal communities have the information necessary to increase overall resiliency. NOAA's Sustained Ocean Observations and Monitoring program funds global observing programs, including floats, drifters, and fixed moorings to provide information essential for accurate forecasting of hurricanes, typhoons, rivers and associated flooding, heat waves, and wildfires.

Funding NOAA's Sustained Ocean Observations and Monitoring program at \$41.3 million will help maintain the continuity of long-term data sets that are essential for ensuring that communities are able to respond and adapt to today's changing world.

OCEAN ACIDIFICATION

The Joint Initiative encourages you, at a minimum, to include the \$8.8 million increase in the President's fiscal year 2015 budget request for Integrated Ocean Acidification, bringing the total funding level to \$15 million.

As oceans become more acidic, there is an urgent need to understand the chemistry, variability, and impact of acidification on the marine environment. Ocean acidification is happening along every shoreline in the United States. In the Pacific Northwest, it is killing young oysters by the billions, threatening the shellfish industry. In 2011, the State of Washington convened a Blue Ribbon Panel on Ocean Acidification, which identified gaps in scientific knowledge and recommended strategies to mitigate immediate threats and improve industry resilience. While shellfish and coral reefs receive most of the attention related to ocean acidification, fisheries, aquaculture, and coastal ecosystems around the Nation will be greatly affected.

While ocean acidification is a global problem needing global solutions, funding the Integrated Ocean Acidification program at NOAA at increased levels will allow us to measure and assess the emerging threat of ocean acidification, better understand the complex dynamics causing and exacerbating it, work to determine its impact, and develop mechanisms to address the problem.

STEM CONSOLIDATION

The Joint Initiative is deeply alarmed by the major restructuring in the administration's proposal that would consolidate science, technology, engineering, and mathematics (STEM) programs, including the elimination of funding for ocean education programs in NOAA. We appreciate your thoughtful response to the STEM consolidation proposal in the fiscal year 2014 Omnibus Appropriations report, noting that the proposal "failed to sufficiently recognize or support a number of proven, successful programs." We believe NOAA education programs—specifically the NOAA Competitive Education Grants Program, Ocean Exploration and Research education, and Sea Grant STEM education activities including all State Sea Grant Program STEM activities—fall into this category.

By eliminating key ocean education programs at NOAA, we are concerned that ocean science content may be lost in the proposed consolidation, as it is not traditionally viewed as a "core science." In addition, removing education programs from mission-driven agencies such as NOAA, where research is sponsored and conducted, will isolate scientific research and its results from ocean education efforts. Educating and cultivating current and future ocean stewards is critical, especially given the tremendous growth in careers that require ocean-related education and knowledge. A recent report by the statutorily-created Ocean Research Advisory Panel (ORAP) forecast a need for approximately one million more college graduates than currently estimated in STEM fields over the next decade. This report underscores

the need for a STEM literate, and ocean literate, workforce to fill positions in commerce, energy, transportation, food production, national security, recreation, and tourism.

The Joint Initiative strongly urges you to fund NOAA education programs at increased levels.

OCEAN EXPLORATION

The Joint Initiative appreciates your long standing support of ocean exploration at NOAA and requests that you provide \$30 million for the Ocean Exploration program to increase the pace, scope, and efficiency of exploration.

A bipartisan effort since inception, the Ocean Exploration program was strongly endorsed by Congress when created in 2002. The program has greatly contributed to our knowledge of the ocean, including Arctic surveys that enabled the U.S. to argue for an extension of our Exclusive Economic Zone; baseline characterization of the *Deepwater Horizon* site in the Gulf before and after the oil spill; discovery of new gas hydrates stretching from Cape Cod to Cape Hatteras, with implications for ocean acidification; and new fishery habitat maps off the Northeast.

SCIENCE, RESEARCH, AND EDUCATION

The Joint Initiative calls attention to the need for consistent and dedicated funding for ocean science, research, and education. We ask you to increase funding for ocean science research, infrastructure, and grant programs at NOAA, National Science Foundation (NSF), and National Aeronautics and Space Administration (NASA) that are working to improve our understanding of critical physical and biological ocean processes. These programs provide local, State, and national decision makers with the information they need to make informed decisions.

In particular, we encourage you to provide \$7.5 billion for the NSF to support core ocean and coastal research and research infrastructure, which are critical to understanding processes that impact the health of the ocean and its role as the “flywheel” that drives global environmental dynamics. Unfortunately, funding challenges within NSF have significantly impacted the Geosciences Directorate and its Division of Ocean Science, thereby seriously eroding funds available to support core research. We also urge \$1.8 billion in funding for the NASA’s Earth Science Division to support critically important ocean and coastal science and education, including ground support and data processing for the multiple Earth observation missions scheduled for launch this year, and key missions currently under development.

ARCTIC

The Joint Initiative recommends that the fiscal year 2015 appropriations bill make a significant investment toward implementation of the National Strategy for the Arctic Region. This will enable the United States to prepare for taking over chairmanship of the Arctic Council in 2015 and lay the groundwork for sound international management of the region while protecting a sensitive and rapidly changing ecosystem.

The changes occurring in the Arctic are not well understood. The area is seeing an influx of international activity as changes in sea ice coverage and thickness open new shipping routes and provide opportunities for energy exploration. Taking over chairmanship of the Arctic Council is a real opportunity to be an international leader in the Arctic; however, increased funding for Federal agencies operating in the Arctic under your jurisdiction, such as NOAA and NSF, is essential if we are to do so. NOAA provides a range of important services essential to our understanding of the Arctic including ocean observation services, weather and sea ice predictions, mapping and charting, and sound management of marine resources.

CONCLUDING REMARKS

The Joint Initiative is acutely aware of the challenges you face addressing the funding needs of agencies and programs across the government. However, the Joint Initiative believes a commitment to understanding and protecting our Nation’s ocean and coasts is an investment in the future of our country that will provide significant economic, social, ecological, and national security benefits.

Thank you for considering our requests as the subcommittee begins its fiscal year 2015 appropriations process. The Joint Initiative sincerely appreciates your attention to this matter and stands ready to assist you in advancing positive and lasting changes in the way we manage our Nation's oceans and coasts.

Joint Initiative Co-Chairs and Leadership Council Members

The Honorable William Ruckelshaus | The Honorable Norman Mineta
 Frances Beinecke | Don Boesch | Lillian Borrone | The Honorable Norm Dicks
 Vice Admiral Paul Gaffney | Robert Gagorian | Sherri Goodman | Scott Gudes
 Vice Admiral Conrad Lautenbacher | Margaret Leinen | Christopher Lischewski
 The Honorable Jane Lubchenco | Julie Packard | The Honorable Leon Panetta
 John Pappalardo | Pietro Parravano | Diane Regas | Randy Repass
 Andrew Rosenberg | Patten White | The Honorable Christine Todd Whitman

PREPARED STATEMENT OF G. TODD KELLISON, CARTERET COUNTY, NORTH CAROLINA
 RESIDENT AND CHIEF, FISHERIES ECOSYSTEMS BRANCH, NOAA FISHERIES/SOUTH-
 EAST FISHERIES SCIENCE CENTER/BEAUFORT LABORATORY

Dear Members of the U.S. Senate Subcommittee on Commerce, Justice and Science, and Related Agencies: First, allow me to state that while I am a National Oceanic and Atmospheric Administration (NOAA) employee, I have written this letter on my own time, with my own resources and not as any part of my NOAA-related job. The comments I offer below are my personal opinion as a citizen regarding the proposed closure of the NOAA Beaufort Laboratory in Beaufort, North Carolina.

I am gravely concerned about the proposal in the 2015 President's budget to close the NOAA Beaufort Laboratory. The Laboratory is part of the National Oceanic and Atmospheric Administration; it is administered by the National Ocean Service (NOS), but also houses the National Marine Fisheries Service (NMFS) and National Estuarine Research Reserve System (NERRS). The Laboratory is a stalwart of fisheries and oceanic science, with an outstanding national and international reputation for advancing science in numerous areas: population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; habitat science; pathogens; and science to support management of economically important fisheries. NOAA and the President have repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for its outstanding quality of scientific work. Furthermore, the Laboratory is the originator and centerpiece of an internationally esteemed consortium of marine science institutions, including the marine laboratories of Duke University, North Carolina State University, the University of North Carolina at Chapel Hill, and the North Carolina Division of Marine Fisheries. Beaufort was chosen because it is a prime location where northern and southern marine ecological communities intersect, and as such the Laboratory provides the only Federal access to the most diverse marine ecosystem in the United States. There is no other location where these opportunities can be accessed as easily or as cheaply. The Beaufort Laboratory is the only NMFS facility on the Atlantic coast between Sandy Hook, New Jersey and Miami, Florida, a stretch of over 1200 miles of coastline.

The request to close the laboratory was based on current funding allocation, but inaccurate and outdated information that overstated the costs of maintaining the facility was used in the analysis that led to this request. Currently, the lab houses 108 employees from NOS, NMFS, and NERRS. The NOS initiated the proposed closure, but the request understated the number of NOS employees and did not account at all for employees from NMFS or NERRS. In effect, this mistake excluded more than half the staff of the Laboratory. Furthermore, the request was based on estimated costs for the Laboratory's upkeep and maintenance that were in error. Since 2006, several activities have been completed to keep the facility in good working condition, including replacement of the administration building, replacement of the maintenance building, replacement of the chemical storage building, replacement of the bridge to the facility, repair of the seawall, and other improvements (air conditioning, electrical, storm water runoff), which totaled approximately \$14 million. After such investments, closing the Laboratory now would represent a conspicuous waste of tax-payer money. Finally, contrary to previous claims, an updated engineering report (2014) documents that the facility is NOT structurally unsound. Based on mistakes both in the number of staff at the facility and in the costs associ-

ated with its upkeep, the budgetary calculations used to justify the proposed closure were fundamentally flawed.

I highlight below, by line office, the critical role that the NOAA Beaufort Laboratory has played in helping NOAA achieve its Strategic Mission (1) to understand and predict changes in climate, weather, oceans, and coasts, (2) to share that knowledge and information with others, and (3) to conserve and manage coastal and marine ecosystems and resources.

NOS

While the National Ocean Service is calling for the closure of the Beaufort North Carolina laboratory, it is requesting an increase of \$4 million to another center to support Ecological Forecasting of Harmful Algal Blooms (HABs), Hypoxia, pathogens, and Species Distributions. These areas of research are the bread and butter of NOS at the Beaufort Laboratory. In fact, NOAA would not have the strength it currently has in forecasting HABs if it were not for the Laboratory's seminal and award-winning work that has been ongoing from the 1980s to this day. Furthermore, the Beaufort Laboratory initiated the first-ever study of the invasive lionfish in the U.S. South Atlantic, and it has continued to play a pivotal role in monitoring the distribution and abundance of this invasion throughout the South Atlantic, Gulf of Mexico, and Caribbean, providing information that has been critical for mitigation and management strategies. It is ironic and perplexing that the fiscal year 2015 President's budget requests increased research funding for coastal ocean issues, including harmful algal blooms, hypoxia, and coastal ecosystem management, while at the same time proposing to close an existing facility that already has both well-established expertise and facilities required to address many of those very same issues.

NMFS

The Beaufort Laboratory provides the stock assessment science that allows NOAA to fulfill its obligation toward the Magnuson-Stevens Fishery Conservation and Management Act, as mandated by Congress. The stock assessment science of the NOAA Beaufort Laboratory focuses on marine fish populations that are ecologically and economically vital to the region and Nation, including snapper-grouper and pelagic species managed by the South Atlantic Fishery Management Council, Atlantic menhaden managed by the Atlantic States Marine Fisheries Commission, and Gulf menhaden managed by the Gulf States Marine Fisheries Commission. Atlantic menhaden support the largest fishery on the U.S. Atlantic coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico. To enable robust stock assessments, sampling of the Atlantic and Gulf menhaden fisheries has been conducted by the Beaufort Laboratory for decades, and monitoring of snapper-grouper species has been accomplished by the Laboratory's Southeast Fishery-Independent Survey. Removing this sampling and monitoring from the Beaufort Laboratory would not only result in a significant disconnect between NOAA and the communities that it serves, but would also degrade the quality of stock assessments at a time when Congress is rightly calling for improvements.

NERRS

NERRS is partnered with the North Carolina Coastal Reserve, with program headquarters at the NOAA Beaufort Laboratory. This program supports long-term research, water-quality monitoring, education, and coastal stewardship. In 2002, Congress provided NOAA with “. . . \$5,000,000 for the Beaufort Laboratory for necessary repairs to existing facilities and to construct a joint laboratory, dock, and other facilities in collaboration with the Rachel Carson National Estuarine Research Reserve.” With this funding, NOAA invested \$1.28 million and the State of North Carolina invested \$42,000 for the construction of a joint building at the NOAA Beaufort Laboratory to serve the Reserve's mission. The joint building was completed in 2007 and was constructed specifically with the Reserve's education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities. The NOAA Beaufort Laboratory is a 5-minute boat ride from the Rachel Carson component of the Reserve, and this close proximity is essential for performing Reserve activities efficiently to conduct mission-critical work, including educational programs, water quality and habitat monitoring, research programs, and stewardship of the site, which involves species monitoring, debris clean-ups, feral horse management, and access point maintenance. In short, NERRS activities in education, training, and steward-

ship have been extensive, and they would not be feasible from any other Federal laboratory.

In conclusion, closure of the NOAA Beaufort Laboratory would be a detriment to NOAA's ability to accomplish its own Strategic Mission and to meet its obligations toward such congressional mandates as the Magnuson-Stevens Fishery Conservation and Management Act. The only argument for closing the laboratory was financial, but that argument was based on flawed estimates of maintenance costs and an outdated engineering report, which has since been revised with opposite conclusions regarding the lab's structural integrity. Relative to NOAA's budget, any cost savings associated with closing the Laboratory would be trivial; however the loss to the Nation would be significant.

PREPARED STATEMENT OF MARY E. KENTULA, CORVALLIS, OREGON

I am writing on opposition of the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Center for Coastal Fisheries and Habitat Research located in Beaufort, North Carolina (hereafter the Beaufort Lab), as recommended on page 8 of NOAA's 2015 Budget Summary. As someone who has worked in the field of aquatic science for over 30 years, I am concerned that one of the Nation's premier research facilities may be closed. The Beaufort Lab is located strategically where the entire East and Gulf Coasts can be easily and cheaply accessed. The Lab is manned by an impressive team of nationally and internationally known scientists who conduct research critical to the understanding of the Nation's coastal ecosystems and the protection of our fisheries and other enterprises supporting the economy of coastal communities.

I have had the opportunity to work with scientists from the Beaufort Lab throughout my career. I have been consistently impressed with the quality of their work and their commitment to the mission of NOAA. One of the invaluable services such facilities provide is the ability to assemble technical teams from a variety of backgrounds and organizations to address difficult problems. This includes expertise from academia, the private sector, and other government agencies, as well as scientists from the natural and social sciences. Because of the mix of skills and perspectives, these teams are highly creative and productive. The Beaufort team has been very successful in using this approach, for example, to address the protection and restoration of coastal ecosystems and to provide guidance to coastal communities on how best to manage their lands in a productive and sustainable way.

I understand the intension is to move the Federal scientists to other laboratories; however, the teams that have formed over the years to conduct what NOAA deemed high priority research will be disbanded, along with the associated institutional history. The time and effort lost while the capability is rebuilt will be costly in real dollars as well as in delays to important work. In addition, the investment in the large and diverse array of equipment at the Beaufort Lab will be lost and the funds used to purchase and maintain the equipment wasted. In this time of budget constraints, it is "penny wise and pound foolish" to destroy a well-functioning unit and lose the investment in the staff and equipment.

There is also the impact to the community of Beaufort to consider. I have read articles expressing concerns about the potential closure of the NOAA Lab. One account mentions the NOAA lab is the largest member of the North Carolina Marine Science and Education Partnership which accounts for over 58 million dollars in funding for research and, with the addition of the education component, more than 100 million dollars is brought into Carteret County. Loss of a key component of this hub for research and education would be devastating to the economy of the area and its citizens.

I urge the Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies to remove the recommendation to close the NOAA Center for Coastal Fisheries and Habitat Research from NOAA's budget for 2015 and thus prevent the loss of an outstanding center for high priority and critical research on coastal systems and fisheries.

Thank you for your consideration.

PREPARED STATEMENT OF NIKOLAI KLIBANSKY PH.D., ATLANTIC BEACH, NORTH CAROLINA

Dear subcommittee members,

I am writing this letter as a private citizen using only my own resources on my own time. I write on behalf of myself and no other agency to express my opposition

to the closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory in Beaufort North Carolina, proposed in the fiscal year 2015 budget. The Beaufort Lab is a part of the National Oceanic and Atmospheric Administration within the U.S. Department of Commerce. Employees of National Estuarine Research Council (NERC), the National Marine Fisheries Service (NMFS), and the National Ocean Service (NOS) are housed at the Lab.

Though I am currently a post-doctoral research associate for the National Research Council working at the Beaufort Lab I am there temporarily and closure of the lab would likely occur after I am gone. But as a citizen, a voter, and a scientist I find that closing the lab would be a loss for us all, for the gain of none.

While I am strongly in favor of fiscal responsibility, and I appreciate public officials trying to save taxpayers money, it is clear to me that closure of the Beaufort Lab would cost far more in intellectual capital and scientific information than would be gained in dollars and cents. The Beaufort Lab is the second oldest marine lab in the United States, commemorated in downtown Beaufort by the kind of historical marker that honors battlefields and the birthplaces of presidents. It is the only lab of its kind on the East Coast from Cape May, New Jersey to Miami, Florida, situated in an ideal location near Cape Hatteras which serves as the most significant marine ecological boundary on this coast. As a North Carolina resident for nearly 7 years, I assure you that this Federal facility is a point of pride to North Carolina voters, who live and breathe to enjoy a healthy ocean, and many who feed their families from it.

The organizations housed within the Beaufort Lab perform essential functions for us all, providing information needed to properly manage marine fisheries like red snapper, mahi mahi, and shrimp; and to mitigate harmful algal blooms and the formation of marine dead zones. Other personnel dedicate their time to managing barrier beach islands and marshes that protect the mainland, human lives, and billions of dollars in coastal real estate from the damaging effects of massive hurricanes like Katrina and Sandy.

Though the argument has been made that closure of the Beaufort lab would save money, this is apparently based on inaccurate numbers. In the budget it was claimed that the buildings are all falling apart and the costs to repair them would be prohibitively expensive, and yet the largest building on the property was built less than 10 years ago and houses the largest proportion of employees. Of all the NOAA labs on the East Coast, the Beaufort Lab is situated on some of the least expensive property. It seems highly unlikely that proper accounting would show a financial benefit of the closure the Lab that would come close to the damage it would inflict. I don't expect that the calculations in the budget were intentionally biased, but they are quite clearly wrong. Therefore I urge you to do what is in your power, to see that the Beaufort Lab is maintained and protected.

PREPARED STATEMENT OF LUND'S FISHERIES INCORPORATED

Dear Chairwoman Mikulski and Ranking Member Shelby: On behalf of the 150 employees of our family-owned, vertically-integrated seafood processing facility and the company-owned and independently-owned commercial fishing vessels and crew whom work to support us here in the port of Cape May, New Jersey, I am writing in strong opposition to the fiscal year 2015 budget proposal to close the National Oceanic and Atmospheric Administration (NOAA) National Ocean Service (NOS)/ National Marine Fisheries Service (NMFS) Fisheries Laboratory in Beaufort, North Carolina.

While the Beaufort Fisheries Laboratory is the second oldest marine fisheries lab in the United States, contrary to the budget proposal's justification that the lab be closed because it is structurally unsound, a recent engineering report, reflecting more than \$14 million in new construction and renovations, states that this is not an accurate description of the facility's capabilities or infrastructure.

More importantly, from the perspective of our fishing company, the Beaufort Laboratory is strategically located, geographically, to monitor the ecological resources and communities of both the northern range of southern species and the southern range of northern species, which are vitally important to marine fisheries on both the Atlantic and Gulf coasts. This location is critical for continued study of emerging issues, like climate change-related warming of ocean habitats, so that fishery managers may be informed of resulting species regime shifts, which are challenging our ability to sustainably manage the region's living marine resources.

Specifically, the Beaufort Laboratory houses a state-of-the-art population dynamics and stock assessment program that focuses on a number of important, regionally commercial fishery species, including Atlantic and Gulf Menhaden, which provide a

critical source of bait for the lobster fisheries of the northeast and the crab and crawfish fisheries of the mid-Atlantic, south and southeast.

Atlantic menhaden, for example, support the largest fishery on the Atlantic coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico, worth more than \$125 million, combined, to local and regional coastal economies including the Port of Cape May. Decades of experience in assessing and monitoring these fishery resources is housed in Beaufort, the loss of which to the region would be significant and, we believe, unnecessary.

Thank you for the opportunity to provide you with our view of this important budget issue. It is clear to us that this proposal should be rejected and that the Beaufort Fisheries Laboratory should be maintained by NOAA. We urge you and the other members of the subcommittee to adopt this point of view.

Please do not hesitate to contact me if I can provide you or your staff with any additional information in support of maintaining the Beaufort Laboratory.

With best regards,

JEFFREY B. REICHLER,
President.

PREPARED STATEMENT OF THE MARINE CONSERVATION INSTITUTE

Ms. Chairwoman and members of the subcommittee: Marine Conservation Institute, based in Seattle, Washington, is a nonprofit conservation organization that uses the latest science to identify important marine ecosystems around the world and advocates for their protection for us and future generations. We wish to thank the members of the subcommittee for the opportunity to submit written testimony on the fiscal year 2015 appropriations for the National Oceanic and Atmospheric Administration (NOAA).

Marine Conservation Institute was instrumental in President Bush's designation of the Papahānaumokuākea Marine National Monument (Northwest Hawaiian Islands) and the Pacific Remote Island Marine National Monuments, which has given rise to our concern for the only species of endangered marine mammal, the Hawaiian Monk Seal, that is found entirely within U.S. territorial waters. Marine Conservation Institute supports \$5.0 million in base funding for the Hawaiian Monk Seal recovery program, which is one element of the Marine Mammal program within the Protected Resources budget line. If funded at \$5 million, the Hawaiian Monk Seal program would receive approximately 35–45 percent more than allocated in the fiscal year 2014 spending plan and about double what has been requested in the last two Presidential budgets. Though these suggested percentage increases, by themselves, would seem large, the amount that the Protected Resources budget would increase in order to accommodate this request is quite small: 1.3 percent (\$2.5 million increase to \$186 million).

WHY HAWAIIAN MONK SEAL RECOVERY IS IMPORTANT

NOAA is responsible for recovering populations of the Hawaiian monk seal, one of the most critically endangered marine mammals in the world. The monk seal is also the only marine mammal whose entire distribution range lies within our national jurisdiction; thus the U.S. is solely responsible for its continued survival. Over the last 50 years, the Hawaiian monk seal population has experienced a severe decline of 60 percent, and now the population is slightly more than 1,000 individuals. Various factors have contributed to the seal's decline including: human hunting of the species to near extinction in the mid-1800's; entanglement in marine debris and fishing gear; loss of habitat for pupping and resting; and competition for food in the Northwestern Hawaiian Islands; to name a few.

There is reasonable hope for the monk seal if a small subpopulation in the main Hawaiian Islands can continue to grow beyond its current level of 130–200 individuals. However, this population growth has generated increased conflicts with citizens and recreational fishermen who unintentionally hook or entangle monk seals. In 2012 alone, there were 15 confirmed hooking incidents, and three seals died as a result. Hostility toward the seal has become toxic in some communities, prompting at least four intentional seal killings on Kaua'i and Moloka'i in a little over a year. Due to the efforts of private foundations and funders, Marine Conservation Institute has been able to successfully conduct culturally appropriate anger reduction activities on Kaua'i in the last 2 years, and there has not been an intentional killing since then. But this kind of private funding is not a permanent solution for plugging a hole in NOAA's budget.

It has been conservatively estimated that 30 percent of the monk seals are alive today due to direct actions by NOAA and its partners.¹ However, we are concerned that funding for the monk seal has severely decreased in recent years (a level as low as \$2.7 million in 2011). Furthermore, our analysis indicates that cuts to the monk seal program have been disproportionate compared to other marine mammal species under NOAA's jurisdiction.

Lower funding levels in recent years have already severely affected recovery efforts by reducing seasonal field camps essential for population monitoring and seal protection in the Northwest Hawaiian Islands; hampering critical community liaison efforts to explore and explain the importance of the monk seal in Native Hawaiian culture; removing specialists who eliminate sharks preying on seal pups; and diminishing research programs that develop mitigation measures for fisheries interactions and other human-seal interactions.

FUNDING LEVEL NECESSARY FOR MONK SEAL RECOVERY

Marine Conservation Institute strongly recommends the subcommittee devote a modest absolute increase in funding, an additional \$2.5 million, to reach \$5.0 million in fiscal year 2015 to begin to reinstate NOAA's lost capacity to recover the species.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF MARINE LABORATORIES

The National Association of Marine Laboratories (NAML) is pleased to submit testimony to the subcommittee with a series of recommendations that we believe would strengthen the Nation's research and education enterprise. NAML is a nonprofit organization representing the ocean, coastal and Great Lakes interests of member laboratories that employ thousands of scientists, engineers and professionals nationwide. NAML labs conduct high quality research and education in the natural and social sciences and translate that science to improve decisionmaking on important issues facing our country. NAML requests the subcommittee to:

- Provide strong support for competitive, merit-based ocean, coastal, and Great Lakes research, infrastructure and education programs at the National Oceanic and Atmospheric Administration (NOAA), the National Science Foundation (NSF), and the National Aeronautics and Space Administration (NASA). This issue is discussed in detail later in this statement;
- Support the research infrastructure of marine laboratories that will lead to better integration of environmental data networks into Federal information and observing system networks and in so doing achieve cost effective science-based decisionmaking regarding the management of marine, coastal and Great Lakes ecosystems and related resources;
- Increase the co-location of Federal scientists and Federal research infrastructure initiatives at NAML laboratories as well as increased coordination and cooperation between NOAA's ocean, coastal and Great Lakes research and education programs; and
- Advance a diverse, distributed ocean science education agenda through strong support for ongoing programs within NSF, NOAA, and NASA. NAML is concerned that the administration's STEM education consolidation plan will terminate K-12 STEM education and fellowship activities within the Sea Grant program as well as terminate important ocean literacy activities in the Office of Education at NOAA. NAML urges the committee to reinstate these activities within NOAA.

THE ROLE OF MARINE LABORATORIES IN THE NATION'S RESEARCH AND EDUCATION ENTERPRISE

Ocean, coastal and Great Lakes marine laboratories are vital, cost-effective, place-based "windows on the sea." They connect communities with cutting edge marine, coastal and social sciences, while also providing students and citizens with meaningful learning experiences. The members of the National Association of Marine Laboratories (NAML) work together to improve the quality and relevance of ocean, coastal and Great Lakes research, education and outreach. In particular, NAML laboratories compete for support for the:

- Conduct of basic and applied research of the highest quality making use of the unique capabilities of coastal laboratories;

¹McAvoy, Audrey. "Feds—Efforts to rescue monk seals helping species." Associated Press in West Hawaii Today, January 26, 2012.

- Revitalization of research infrastructure through increased cost-effective networking of capabilities;
- Unique role that coastal laboratories play in conducting education, outreach and public service;
- Encouragement of wise use and conservation of marine and coastal habitats and resources using ecosystem-based management approaches;
- Coastal and other observing systems that collect front line data needed to improve predictions of natural and human-caused disasters, the management of marine resources, research, and education; and
- Increased public ocean and Great Lakes literacy to promote greater environmental stewardship.

OCEANS, COASTS AND GREAT LAKES—VITAL FOR ECONOMIC GROWTH AND ENHANCED
COASTAL RESILIENCY

The ocean, coasts, coastal watersheds, and the Great Lakes play a central role in the well being of the Nation. Over 8.5 million people reside in the 100-year coastal flood hazard area. More than half of the United States population lives in 673 coastal watershed counties, and these counties generate 58 percent (\$8.3 trillion) of the Nation's gross domestic product (GDP)—even though they comprise only 25 percent of the Nation's land area. Every day, the marine environment supplies a multitude of products and services that enhance and support the lives and livelihoods of citizens. In 2011, Americans, on average, ate 15 pounds of fish and shellfish per person—4.7 billion pounds all together—making the U.S. second in the world in total seafood consumption. Offshore oil production in Federal waters accounts for 24 percent of total U.S. crude oil production. If American coastal watershed counties were considered an individual country, that country would have a GDP higher than that of China. The United States has jurisdiction over 3.4 million square miles of oceans—an expanse greater than the land area of all 50 States combined. This vast marine area offers many environmental resources and economic opportunities, but also presents threats such as damaging tsunamis and hurricanes, industrial accidents and outbreaks of water borne pathogens. The 2010 Gulf of Mexico *Deepwater Horizon* oil spill, the 2011 Japanese earthquake and tsunami, and the 2012 Superstorm Sandy are vivid reminders that our understanding of our oceans and coastal areas is far from complete. Developing sufficient capabilities to sustain ocean-based economies and protect our coasts and coastal communities from natural and man-made hazards will require a sustained investment in research, infrastructure and education and training. NOAA's budget request contains several programs designed to reduce coastal and community vulnerability to future storms, inundation and sea level rise. NAML encourages the Committee to support these resilience programs

NAML PRIORITY—INVESTING IN RESEARCH

NAML believes America is driven by innovation—advances in ideas, products and processes that create new industries and jobs, contribute to our Nation's health and security, and support a high standard of living. In the past half-century, educated people and the knowledge they produce have increasingly driven innovation. It is essential that the Nation reaffirms and revitalizes the unique partnership that has existed between the Federal Government, the States and business and industry with the Nation's research and education enterprise. In doing so, we encourage the innovation that leads to high-quality jobs, increased incomes, security, health, and prosperity for the Nation. Investing in the Nation's research enterprise should be seen as a high priority that has contributed significantly to our long-term prosperity and technological preeminence through interdisciplinary research spanning a landscape of disciplines, from physics to geology, chemistry to biology, engineering to social sciences and modeling to observation. NAML believes that research and education programs at the major Federal science agencies with ocean and coastal responsibilities should be viewed as priority investments in the future health and well being of the Nation.

Programs that support the extramural community via competitive, merit-based research provide highly cost-effective returns on investment, leverage additional resources to meet science and management priorities, and distribute economic and societal benefits over a broad array of communities. While NOAA has acknowledged his assertion on many occasions, its support for its extramural partners has continued to decline. From background information developed for the NOAA Science Advisory Board's R&D Portfolio Review Task Force support by the Office of Oceanic and Atmospheric Research (OAR) for extramural R&D has declined by \$60 million since 2005—from \$171.6M to \$107.1M while the percentage of OAR's research activities

to support extramural programs has dropped from just over 50 percent down to 34 percent of the total. In the National Ocean Service (NOS), support for extramural R&D has declined from a level of \$21.6M in 2005 to \$13.7M in 2011 while intramural support has grown from a level of \$53 million in 2005 to a level of \$58 million in 2011. Moreover NOAA has repeatedly proposed the termination of numerous extramural programs—such as the John H. Prescott Marine Mammal Grants program—and the consolidation of research programs—such as Ocean Exploration and Research—which has led to the dramatic reduction in extramural research and education support.

Beyond cutting back on its extramural support, NOAA now seeks permission to “receive and expend funds made available by, any . . . private organization, or individual (proposed Section 108 of the General Provisions in the NOAA Section of the Appendix to the fiscal year 2015 Budget).” This would enable NOAA to compete against non-Federal and private entities for private sector support. Thus not only is NOAA cutting back its own support, it intends to further exacerbate the situation by competing against its partners for the limited available non-Federal resources needed to fill the gaps created by NOAA’s decision to scale back its extramural support.

NAML urges the Committee to restore to the maximum extent possible NOAA support for its extramural research, education, and other related programs while also limiting NOAA’s ability to compete with the private sector for non-Federal resources needed for research, education, and conservation programs.

Much attention has been justifiably focused on the need for our Nation to continue its support of premier basic research programs. It is also important to maintain strong support for mission-oriented ocean, coastal and Great Lakes research, observing and monitoring programs. Further, NAML believes that developing exchange programs between Federal agencies and marine laboratories—such as co-location of Federal scientists and Federal research infrastructure initiatives at NAML laboratories—will further strengthen the capacity of both sectors while also reducing costs by eliminating duplicative activities.

NAML PRIORITY—INVESTING IN RESEARCH INFRASTRUCTURE

NAML believes that a comprehensive range of ocean and coastal research infrastructure will be needed to meet growing demands for scientific information and to enable the safe, efficient, and environmentally sustainable use of the ocean. Institutional barriers have inhibited collaborative efforts to plan for the deployment, operation and maintenance of high-cost critical infrastructure assets such as ships, satellites, observing systems and cyber-infrastructure for data sharing, networking and collaborative use of available facilities. Marine laboratories often play a critical role in supporting studies that extend across decades. Marine laboratories can provide the infrastructure to collect data throughout a lifetime, and even maintain important data streams that extend well beyond any single researcher. Marine laboratories are often a hotbed of sensor development and testing. With technology changing rapidly, marine laboratories provide the expertise to maintain a level of standardization that ensures such data can be interpreted accurately even as protocols change in response to improving technology. Marine laboratories are playing an increasing important role in supporting networks that extend beyond any single lab. Because environmental processes occur on a wide range of spatial and temporal scales, data streams are standardized and networked to varying degrees to facilitate cross-site and long-term analyses. Finally, given the complexity and interconnected nature of many environmental processes, marine laboratories provide important opportunities to weave together the work of many researchers across diverse disciplines to detect patterns and understand processes that would not be apparent from any single study or data stream.

NAML PRIORITY—SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS (STEM) EDUCATION

NAML’s education mission is two-fold: to enhance ocean STEM education to ensure that all citizens recognize the role of the oceans, coasts and Great Lakes in their own lives and the impacts they themselves have on these environments; and to provide formal research and training opportunities at K–12, college, and post-graduate levels to ensure a technically-qualified, and ethnically diverse workforce capable of solving problems and answering questions related to the protection, restoration and management of coastal and ocean resources, climate variability and society’s needs. An informed and engaged public is essential to understand complex ocean- and coastal-related issues, balance the use and conservation of marine resources, and maximize future benefits from the ocean. The public should be armed

not only with the knowledge and skills needed to make informed choices, but also with a sense of excitement about the marine environment. Public understanding of human impacts on the marine environment should be balanced with recognition of the benefits to be derived from well-managed ocean resources. Inland communities need to be just as involved as seaside communities, because of the connection among the ocean, the atmosphere and the land. Ocean-related education also has the potential to help stem the tide of science illiteracy threatening to undermine the Nation's health, safety and security. The scientific literacy of U.S. high school graduates is well below the international average. This progressive loss of literacy weakens the Nation's ability to maintain its traditionally strong foundation in science and mathematics. NAML laboratories seek to expand the engagement of individuals from groups that have been historically under-represented in ocean research, education and outreach. This is particularly important in fulfilling the goal of achieving a diversified STEM pipeline to meet future science and ocean workforce needs.

NAML remains concerned with certain elements of the administration's STEM Education Consolidation proposal for fiscal year 2015. A total of 31 STEM education programs at nine key R&D mission agencies (including NOAA, NSF, and NASA) will be impacted by this proposal. It is important for mission agencies to help support the next generation of scientific and technical talent—much of which will be needed by these agencies in future years. We urge the subcommittee to reject these particular consolidation proposals and support the continuation of these programs within their current agencies.

NAML appreciates the opportunity to present these views to the subcommittee as it begins work on the development of the fiscal year 2015 appropriations bill.

Thank you.

PREPARED STATEMENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

On behalf of the National Congress of American Indians (NCAI), this testimony addresses important programs in the Department of Justice (DOJ) and Department of Commerce. NCAI is the oldest and largest American Indian organization in the United States. Tribal leaders created NCAI in 1944 as a response to termination and assimilation policies that threatened the existence of American Indian and Alaska Native tribes. Since then, NCAI has fought to preserve the treaty rights and sovereign status of tribal governments, while also ensuring that Native people may fully participate in the political system. As the most representative organization of American Indian and Alaska Native tribes, NCAI serves the broad interests of tribal governments across the Nation. As Congress considers the fiscal year 2015 budget and beyond, leaders of tribal nations call on decision-makers to ensure that the promises made to Indian Country are honored in the Federal budget.

INTRODUCTION

Annual funding decisions by Congress are an expression of our Nation's moral priorities. Numerous treaties, statutes, and court decisions have created a fundamental contract between tribal nations and the United States: tribes ceded millions of acres of land that made the United States what it is today, and in return tribes have the right of continued self-government and the right to exist as distinct peoples on their own lands. And for its part, the United States has assumed a trust responsibility to protect these rights and to fulfill its solemn commitments to Indian tribes and their members.

Part of this trust responsibility includes basic governmental services in Indian Country, funding for which is appropriated in the discretionary portion of the Federal budget. Tribal governments exist to protect and preserve their unique cultures, identities, and natural environments for posterity. As governments, tribes must deliver a wide range of critical services, such as education, workforce development, and first-responder and public safety services, to their citizens. The Federal budget for tribal governmental services reflects the extent to which the United States honors its promises to Indian people.

DEPARTMENT OF JUSTICE

The bi-partisan Indian Law and Order Commission (ILOC) recently released its report to Congress and the President emphasizing that “[n]ow is the time to elimi-

nate the public safety gap that threatens so much of Native America.”¹ The public safety problems that continue to plague tribal communities are the result of decades of gross underfunding for tribal criminal justice systems; a uniquely complex jurisdictional scheme; and the historic, abject failure by the Federal Government to fulfill its public safety obligations on American Indian and Alaska Native lands. Residents and visitors on tribal lands deserve the safety and security that is taken for granted outside of Indian Country. The time is now to remedy the disparities.

Congress has taken historic steps in recent years with the passage of the Tribal Law and Order Act in 2010 and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013), both of which begin to address some of the structural barriers to public safety in tribal communities. For the promise of these laws to be fully realized, however, these laws must be fully implemented, which requires sufficient resources for tribal justice systems and ongoing coordination and consultation between various Federal agencies and tribal governments. The Department of Justice recognized this reality in its recently issued Proposed Statement of Principles. The Proposed Statement articulates DOJ’s belief that stable funding at sufficient levels for essential tribal justice functions is critical to the long-term growth of tribal institutions.²

Increased and targeted funding in the following program areas will have a huge impact on safety in tribal communities for tribal citizens, residents, and visitors to tribal lands. This would also help foster economic development on tribal lands and improve the quality of life in immeasurable ways. As the Federal Government balances the Federal budget, it must also pledge to honor its distinct legal, treaty, and trust obligations to assist tribal nations in providing public safety to their citizens. Highly-functioning criminal justice systems and basic, on-the-ground police protection are fundamental priorities of any government; tribal governments are no different.

As the ILOC asserts, “[h]ow we choose to deal with the current public safety crisis in Native America—a crisis largely of the Federal Government’s own making over more than a century of failed laws and policies— can set our generation apart from the legacy that remains one of [the] great unfinished challenges of the Civil Rights Movement. Lives are at stake, and there is no time to waste.”³

Provide at least \$395.4 million for the Department of Justice (DOJ) public safety initiatives in Indian Country (including \$375.4 million in discretionary funds and \$20 million from the Crime Victims Fund, a mandatory account).—The Crime Victims Fund, administered by the Office for Victims of Crime (OVC) within DOJ’s Office of Justice Programs (OJP) includes the \$20 million set-aside for tribal victim assistance within the Crime Victims Fund, which was initiated in fiscal year 2014. The Crime Victims Fund was initially established to address the need for victim services programs, and to assist tribal, State, and local governments in providing appropriate services to their communities. The Fund is financed by collections of fines, penalty assessments, and bond forfeitures from defendants convicted of Federal crimes, but until last year, tribes have only been eligible to receive a very small portion of the discretionary funding from the Fund. The tribal funding is requested as part of OVC’s Vision 21 Initiative, a strategic planning initiative based on an 18-month national assessment by OJP that systematically engaged the crime victim advocacy field and other stakeholder groups in assessing current and emerging challenges and opportunities facing the field. The initiative focuses on supplemental victim services and other victim-related programs and initiatives in areas like research, legal services, capacity building, national and international victim assistance, and—of course—tribal assistance.

The Department proposes bill language for a 7 percent tribal set-aside from all discretionary Office of Justice Programs to address Indian Country public safety and tribal criminal justice needs. Under the fiscal year 2015 request, the 7 percent set-aside totals approximately \$102.8 million—a slight increase from last year’s request.

This year’s DOJ budget also requests a total of \$1.6 million for the Office of Tribal Justice (OTJ) to, amongst other things, help fund a total of six attorney positions in fiscal year 2015. This request is identical to fiscal year 2014. The request for additional staffing resources was made in recognition of the increased workload and

¹ Indian Law & Order Commission. (November 2013). *A roadmap for making Native America safer: Report to the President & Congress of the United States*, Executive Summary, p. v. Retrieved on January 10, 2014, from www.aisc.ucla.edu/iloc/report/files/A_Roadmap_For_Making_Native_America_Safer-Full.pdf.

² U.S. Department of Justice. (November 2013). Proposed statement of principles for working with federally recognized Indian tribes, p. 2. Retrieved on January 10, 2014, from www.justice.gov/tribal/docs/statement-of-principles-for-working-with-tribes.pdf.

³ Indian Law & Order Commission.

duties of OTJ staff in recent years, particularly since the Tribal Law & Order Act of 2010 established OTJ as a permanent component of the Department. Hundreds of Federal cases, in addition to other conflicts needing resolution are generated in Indian Country each year, and OTJ serves as the primary point of contact between all 566 federally recognized tribes and DOJ on these matters. Additionally, with the special domestic violence criminal jurisdiction (SDVCJ) tribal provisions of the Violence Against Women Reauthorization Act of 2013, OTJ plays an important role in implementation. OTJ coordinates these complex matters, the underlying policy, and emerging legislation between more than a dozen DOJ components active in Indian Country. As such, it is imperative that OTJ has the necessary resources to sufficiently fulfill all of these obligations.

Additionally, the fiscal year 2015 budget request for tribes under the *Community Oriented Policing Services* (COPS) program to fund tribal law enforcement expenses is \$35 million, an increase of \$15 million from the fiscal year 2014 requested amount. This program provides funding and resources to meet the public safety needs of law enforcement and advance community policing on tribal lands. The President’s fiscal year 2015 increase brings the amount closer to his request in fiscal year 2012 (which was closer to \$42 million). These funds are critical for the hiring and retention of tribal law enforcement officers.

DOJ’s fiscal year 2015 Budget Request for Indian Country programs is an increase over its fiscal year 2014 numbers, which is particularly encouraging given the current budget climate in Washington, DC. Moreover, DOJ’s request provides tribes with more flexibility in how they spend their DOJ grant dollars, demonstrating the Justice Department’s continued commitment to tribal self-determination and the improved administration of justice on Indian lands.

OFFICE ON VIOLENCE AGAINST WOMEN—VIOLENCE AGAINST NATIVE WOMEN

NCAI urges Congress to fully fund the programs authorized in the Violence Against Women Act (VAWA), including the funds authorized for tribal implementation of VAWA special domestic violence criminal jurisdiction. In fiscal year 2015, VAWA in CJS should be funded at the authorized level of \$569.5 million instead of \$422.5 million. Tribes receive statutory set-asides.

VAWA is a cornerstone of our Nation’s response to domestic violence, sexual assault, dating violence, and stalking. Its effective coordinated community response model helps hundreds of thousands of victims find safety and receive services while holding thousands of perpetrators accountable for their actions. VAWA also supports victims’ long-term stability and security, and it addresses the unique barriers that many victims face in accessing services and finding justice.

It is estimated that one in three Indian women will be raped and that 6 in 10 will be physically assaulted in their lifetimes. This violence threatens the lives of Native women and the future of American Indian tribes and Alaska Native villages. No area of need is more pressing or compelling than the plight of American Indian and Alaska Native women and children fleeing physical and sexual violence.

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act (VAWA 2013) which recognizes and affirms the inherent sovereign authority of Indian tribes to exercise Special Domestic Violence Criminal Jurisdiction (SDVCJ) over all persons—Indian and non-Indian—who commit crimes of dating violence, domestic violence, and violations of protection orders within Indian Country. The bill authorized \$5 million for tribes to implement the new VAWA provisions and otherwise strengthen tribal justice systems.

[Dollars in millions]

Name of Grant Program	Fiscal year 2013 enacted *	Fiscal year 2014 budget	Present fiscal year 2015	Authorized level
COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS				
STOP—Grants	\$176.18	\$193	\$193	\$222
Sexual Assault Services Program (SASP)	23.30	27	27	40
Services for Rural Victims	34.02	36	33	50
Civil Legal Assistance for Victims	38.22	37	42.5	57
Transitional Housing (OVW)	23.30	24.75	25	35
Grants to Encourage Arrest Policies	46.61	50	50	73
CHOOSE Youth Program	4.66	5	5	15
SMART Program	4.66	5	5	15
Grants to Support Families in the Justice System ..	14.45	15	16	22
Research on Violence Against AIAN Women	0.93	1	1	1

(Dollars in millions)

Name of Grant Program	Fiscal year 2013 enacted *	Fiscal year 2014 budget	Present fiscal year 2015	Authorized level
COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS				
Nat'l Clearinghouse on Sexual Assault of AI/AN Women	0.47	0.5	0.5	0.5
National Tribal Sex Offender Registry	0	0	—	1
Tribal Jurisdiction	—	—	—	5.0
VAWA CJS Total	388.24	417.0	422.5	569.5

*With sequestration and rescissions.

DEPARTMENT OF COMMERCE

Provide \$35 million for the Minority Business Development Agency (MBDA).—Created by Executive Order in 1971, the MBDA was established to support minority business development centers and received funding of almost \$63 million to carry out this mission. Since then, MBDA's funding has shrunk by over 50 percent to an estimated \$30.5 million for fiscal year 2013 and \$29.3 million for fiscal year 2014. After MBDA revamped its cooperative assistance grants to Minority Business Centers (MBCs), the Native American Business Enterprise Centers (NABECs) were eliminated and their services were consolidated with the MBCs. About \$13 million of MBDA's budget is disbursed to the MBCs to provide business consulting; advice on business financing; and some procurement technical assistance to minority businesses, entrepreneurs, and tribal enterprises.

With the service gap created by the elimination of NABECs, the need for an increased level of funding for MBDA is even greater. MBDA must sustain and expand support for these centers, which provide important assistance to businesses that help them grow and develop, thereby creating a stronger private sector and healthier national economy. The MBDA also supports minority contractors' teaming efforts to pursue Federal contracts, directs efforts to track minority business data, collaborates with the Office of Native American Affairs, and is increasing its focus on global trade.

Fund the Office of Native American Affairs (ONAA) at a minimum of \$1.25 million as part of the Commerce Department Management Budget.—In the late 1990s, the Secretary of Commerce established ONAA within the Secretary's office that was codified by the enactment of the Native American Business Development, Trade Promotion and Tourism Act of 2000 (Public Law 106-464) (the 2000 Act). Since then, funding for the Office has been partial and very limited. In order to carry out its mission, ONAA must receive adequate support to implement Indian policy initiatives and expand Native American business development initiatives both domestically and internationally. Funding made available through Commerce's Departmental Management budget would help ONAA's efforts, particularly given the reduced focus of MBDA on specific Native American business assistance.

CONCLUSION

Thank you for your consideration of this testimony. For more information, please contact Natasha Anderson, Staff Attorney, at nanderson@ncai.org, Amber Ebarb, NCAI Budget and Policy Analyst, at aebarb@ncai.org or Brian Howard, Legislative Associate, at bhoward@ncai.org.

PREPARED STATEMENT OF THE NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASSOCIATION

Chairwoman Mikulski, Vice Chairman Shelby, members of the subcommittee, thank you for the opportunity to submit remarks on the Department of Justice (DOJ) fiscal year 2015 budget. On behalf of the National Court Appointed Special Advocate (CASA) Association's network of 933 State and local CASA and guardian ad litem (GAL) programs in 49 States, including Maryland and Alabama, I strongly urge the subcommittee to fully fund the Court Appointed Special Advocates program through DOJ's Office of Juvenile Justice and Delinquency Prevention at the Congressionally authorized level of \$12 million. This funding, along with significant local and State sources, will be used to expand advocacy on behalf of abused and neglected children, a vulnerable population that is highly at-risk of juvenile delinquency and incarceration.

We appreciate the subcommittee's long standing recognition of the overwhelmingly positive impact CASA programs have in the lives of abused and neglected children, and we urge your ongoing support as we strive to achieve our national goal of providing a CASA volunteer for every child in foster care. In the U.S. today, too many of our 646,000 foster youth are going it alone. They want and need advocates to help them reach their full potential, and every day, CASA programs across the country provide an important voice in the lives of children beyond the walls of the courtrooms in which their cases are heard.

The effectiveness of the CASA/GAL program model in achieving positive, long-term outcomes for children in care is well documented and well supported. CASA volunteer advocates are an influential protective factor in children's lives. A child with a CASA/GAL volunteer is more likely to receive needed counseling services, less likely to experience disruptive changes of placement, and more likely to pass all their courses in school. As community members with a vested stake in the long-term success of the children they serve, CASA volunteers advocate against tremendous odds for the fundamental right of every individual to live in a safe and secure environment.

As the subcommittee is acutely aware, foster youth face an extensive range of risk factors, including a much greater chance of juvenile delinquency and incarceration than the general youth population. According to data last collected by the National Institute of Justice in 2011, children who suffer from abuse and neglect are 28 percent more likely to be arrested as adults and 59 percent more likely to be arrested as juveniles.

Through smart, targeted investments in a program that provides a stable, supportive advocacy-based presence in children's lives, together, we can stem the tide of youth delinquency in this Nation and move our young people—high-risk foster youth included—toward a safe and promising future. The value of saving a high risk youth from a life of crime has been reliably estimated to range between \$2.6 and \$5.3 million. Our programs provide one-on-one advocacy and mentoring throughout the course of a child's case that is critical to keeping the lives of foster youth on a positive trajectory and away from a devastating future.

As with a number of programs across the Federal Government, the Court Appointed Special Advocate program has weathered its share of funding cuts over the past few fiscal years as Congress works to achieve deficit reduction. I assure you that our programs have left no stone unturned in our quest to serve children, but we need the support of Congress to help vulnerable children, a population to whom we all share a significant obligation. These Federal funds, which are leveraged with other State and local resources, have been a significant driver of increased service to children.

While CASA funding has decreased by half of the fiscal year 2011 enacted level, the need for effective advocacy for foster youth in the courtroom—and the need for the robust training, technical assistance, and other resources that make this advocacy possible—has not at all diminished. Additionally, CASA/GAL programs across the Nation are reporting that their cases are increasingly complex and challenging—including cases involving the overmedication of foster youth as just one example—which require additional time, energy, and resources, all of which are stretched significantly across our programs.

We ask the subcommittee to provide funding for a program that not only transforms the lives of foster youth, but is also an effective cost investment of taxpayer dollars at a time in which every single one of those dollars must be spent wisely. CASA/GAL programs, in addition to advocating for a child's best interest in the courtroom and ensuring that he/she has the services needed to succeed, work to move the child out of the foster care system as quickly and as safely as possible. Less time in care is a better outcome for the child and it is a better outcome for State governments and Federal child welfare programs, compared to the cost of keeping a child in care.

CASA volunteers save tens of millions of dollars in child welfare and other costs to society, as we work to keep at-risk youth out of the burgeoning prison system and on the path to promising, fulfilling futures. More than 90 percent of children with CASA volunteers never re-enter the foster care system. By reducing long-term placements, subsequent victimization, and reentry into the system, the CASA program substantially reduces foster care costs and significant costs associated with long-term services for children who have endured traumatic and difficult circumstances through no fault of their own.

To put this in simple accounting terms, it costs the Federal Government \$3,250 per month to keep a child in the foster care system. Every child with a CASA volunteer saves the taxpayer approximately \$24,375 per year, because our volunteers are moving these children safely out of the system. While a more efficient use of re-

sources is of paramount importance, let me also emphasize the value of our work in purely human terms. Every day a child spends in the foster care system, is a day he or she can never get back. It is a day that they are unable to do many of the things that we take for granted in the lives of our own children—making lasting friendships, forming a bond with a teacher, enjoying the movements of everyday life with a loving family that is truly their own. All children deserve a safe, nurturing, permanent home.

I would also like to thank the subcommittee for continuing to provide strong funding for DOJ's competitive youth mentoring grants program. This funding is critical to strengthening and expanding the reach of organizations across the country that positively impact the lives of at-risk and underserved youth through one-on-one mentoring. The mentoring programs funded through these grants build needed assets in young people and change their lives for the better.

We again ask the subcommittee to fund the Court Appointed Special Advocates program at \$12 million in fiscal year 2015 to address an overwhelming need for advocacy on behalf of abused and neglected children. Thank you for your consideration of our request.

PREPARED STATEMENT OF THE NATIONAL CRIME PREVENTION COUNCIL (NCPC)

Thank you, Chairwoman Mikulski and Ranking Member Shelby, for the opportunity to submit testimony to the subcommittee in support of funding for the U.S. Department of Justice's crime prevention programs. In fiscal year 2015, we respectfully urge the subcommittee to appropriate \$25 million for the Byrne Memorial Competitive Grants Program, \$15 million for the Economic, High-Technology, Cybercrime Prevention program, and \$75 million to continue the Comprehensive School Safety Program.

Within the funds for the Byrne Competitive Grants program, we respectfully request that the subcommittee provide specific guidance to the Office of Justice Programs (OJP) to continue its historic support for two essential crime prevention functions. The first is ensuring the existence of independent, non-governmental national repositories of best practices and evidence-based crime prevention. This ensures that State and local law enforcement have access to the best materials on effective crime prevention practices—to get the best possible outcomes from the subcommittee's investments in Byrne Justice Assistance Grants and in OJP's other State and local assistance programs. The second essential function is a strong national public education campaign to reach the general public with evidence-based crime prevention messages—a tactic which has been shown to have tremendous impact in changing individual and collective behavior to prevent crime.

We also want to applaud the Department of Justice (DOJ) for a well thought out, comprehensive grants program that supports the work of its Intellectual Property Crimes Task Force. In the last few years, OJP has awarded grants to State and local law enforcement to encourage strong investigations and effective prosecutions of Intellectual Property crimes, which cost our economy 373,000 jobs and \$58 billion per year, and pose serious threats to Americans' health and safety.

The Department also wisely included a demand reduction component to this comprehensive effort. In partnership with DOJ, late in 2011 NCPC launched a public education campaign to increase public awareness of the consequences of purchasing counterfeit and pirated products. The campaign addresses the impacts to health and safety, support for organized criminal elements, and job loss. We hope the subcommittee will support this effort and encourage OJP to continue this sensible approach of including demand reduction and public education in the effort to fight Intellectual Property crime. Grants through the Economic, High-Technology, Cybercrime Prevention program can continue this important purpose.

Like all Americans, we remain troubled by the increase of violent activity in our schools, and support efforts to continue the Comprehensive School Safety Initiative with \$75 million in fiscal year 2015. School safety must be addressed through a sustained commitment nationally—both to reassure schools that they have a partner, and to reassure parents that work is being done to make their schools a safe place for their children. Though new, the initiative is a research-focused plan to increase the safety of schools nationwide. DOJ has just begun work to detail the root causes of school violence, develop technologies and strategies for increasing school safety, and provide pilot grants to test innovative approaches to enhance school safety across the Nation. Significant funding in fiscal year 2015 will continue this commitment and realize the gains made in fiscal year 2014.

School safety has been at the heart of NCPC's work for much of our history. Our signature Be Safe and Sound in School (B3S) initiative combines target hardening

and Crime Prevention Through Environmental Design techniques with concrete ideas on engaging the school and surrounding community in activities to promote a culture of respect in schools. These techniques include: participation by students, staff, parents, teachers and administrators in strategic planning for school safety; improved surveillance and maintenance; training; and ongoing evaluation.

Background.—NCPC’s mission is to be the Nation’s leader in helping people keep themselves, their families, and their communities safe from crime. Through different media and methods, NCPC enables communities and law enforcement to work together to create safe environments, especially for children and youth. Established in 1980, the NCPC-led National Citizens’ Crime Prevention Campaign and related initiatives have featured our beloved icon McGruff the Crime Dog® and his signature message that beckons all Americans to “Take a Bite Out of Crime.®”

McGruff has had lasting impact. Eighty-three percent of adult Americans recognize McGruff. Over 80 percent of kids would follow his advice on crime prevention. Over 90 percent of adults describe McGruff as informative, trustworthy, and effective. And 72 percent think he’s cool. Further, Federal resources invested in the National Citizens’ Crime Prevention Campaign have been well leveraged. For every \$1 of Federal investment, the Campaign generated \$100 or more in donated media. Over its history, the Campaign has produced \$1.4 billion worth of donated advertising.

Since the inception of the Campaign, NCPC, a private, non-profit, tax-exempt 501(c)(3) organization, has maintained a close partnership with DOJ and local law enforcement. Together we create cost-effective and award-winning public education campaigns, launch groundbreaking and comprehensive support initiatives for crime-besieged cities, provide training and technical assistance, produce and distribute hundreds of ready-to-use publications filled with practical tips, expand the reach of crime prevention tools through online resources, conduct conferences, and more. Our goal is to give Americans the tools they need on the ground and in the field.

Supporting Crime Prevention Practitioners.—To the greatest extent possible, NCPC designs messages and trains law enforcement, community leaders, and other individuals on crime prevention practices with proven outcomes based on the highest standards of research. NCPC’s commitment to promoting the most effective crime prevention tools is based on our capacity to monitor crime prevention research and translate that research into practice.

With additional support from DOJ, NCPC provides National Training and Technical Assistance to address the nationwide gap in education opportunities for new law enforcement officers, which was a result of local department cuts in training and crime prevention budgets. NCPC has also recorded or released five podcast interviews with experts in the field on topics such as Neighborhood Watch and Citizen Corps, crime-free multi-housing, and what a crime prevention officer is worth. Soon NCPC will develop a toolkit for new officers, which will include PowerPoint presentations, fact sheets, and resources on basic crime prevention that they can share with their communities.

National Crime Prevention Activities.—NCPC works closely with State and local law enforcement and their national organizations to anticipate and respond to persistent crime challenges, emerging crime trends, and changing crime prevention needs nationwide.

Through a Byrne Competitive grant, NCPC is working with DOJ and a number of other partners to conduct a crime prevention awareness campaign to address the dangerous and costly problem of intellectual property (IP) crime, such as pirating and counterfeiting. Our goal for the campaign is to engage the public in demand reduction and decrease threats to public health and safety. We are also working with law enforcement to bring the consequences of IP theft to the forefront for the public. Through focus groups and survey assessments NCPC uncovered that consumers do not expect to get caught. They do not believe that law enforcement is overly concerned about this problem because if law enforcement were concerned, the public would be more aware of the crime and subsequent IP prosecutions. In order to educate the public, we need to encourage and equip those officers and agencies who understand the impact to talk about IP investigations and arrests in the same way they would about a big drug bust or capture of a violent criminal.

We are also working on several other public education campaigns to help people protect themselves, particularly from fraud. In 2013, NCPC hosted a virtual conference for consumers and organizations that support them in avoiding and recovering from mortgage fraud. It provided valuable information to homeowners on how to protect themselves against mortgage scams. This complements our individual- and community-focused work on foreclosure fraud and vacant property crime. Its reach will soon be expanded through public service advertising.

Additionally, we are tailoring crime prevention information to the overlooked population of young people ages 18 to 24. As teens and young adults leave their homes to pursue education and employment for the first time they are often the victims of criminals and scams that prey on their inexperience. That is why we are developing programs to help these young people “Be Smarter,” live safely and protect themselves as they handle their first credit cards, first apartments, first cars, first college campuses, first vacations on their own, and first jobs.

We are providing practical, ready-to-use resources on crimes against senior citizens. Senior citizens are vulnerable to telemarketing and financial fraud that threaten their financial stability. We are also educating the public on the under-reported crime of elder abuse. An alarming number of senior citizens are physically, emotionally, sexually, or financially abused—frequently by people they trust. We are striving to ensure that people of all ages can speak out and act to prevent abuse and victimization and live in safe communities. On April 10, we held a virtual conference to protect senior citizens from physical abuse and financial exploitation. For law enforcement and direct service organizations, this is also a wonderful opportunity to learn how to better serve the victims of such scams. It remains available online at <http://engage.vevent.com/rt/ncpcsafeseniors>.

Four years ago, NCPC set out to work on a new crime prevention initiative that would “inspire us to live in ways that embody respect... where we live, learn, work, and play.” That is our vision for the Circle of Respect. Lack of respect contributes to school violence, property theft, online aggression, and cyberbullying among teens. Studies show that young people join gangs because it is the only place they get respect.

The Circle of Respect is a national initiative that engages and challenges children, young people, adults, families, and communities to promote a culture of respect that transcends what has been a traditional tolerance of unacceptable behavior. The Circle of Respect website will also host VOICES—a user-generated site for teens to speak about personal experiences of respect within their families, peers, and communities. We will use their submitted artwork, poetry, short stories, music, and films to guide development on respect-centered materials for other youth, service providers, and crime prevention practitioners.

When McGruff and NCPC came on the scene almost 35 years ago, community groups and individual citizens thought that crime prevention was the sole responsibility of law enforcement. Working together with DOJ, local law enforcement, and communities all across the Nation, we have “moved the needle” so that today, we know that crime prevention is everyone’s business. McGruff has carried the message that all people—whether they are 7 or 107—can do their part to prevent crime and make America safer. That’s what “Take A Bite Out of Crime” means. Three out of four adults now know they have a personal responsibility for helping to keep their communities safe from crime.

New forms of crime are growing, such as identity theft, mortgage and foreclosure fraud, and cybercrimes of every stripe. We must effectively deploy our tightening resources to combat crime. Crime extracts a significant financial cost—approximately \$3.2 trillion per year—borne by victims and their families, employers, communities, and taxpayers. In 2011, governments at all levels spent more than \$236 billion for police protection, correctional facilities, and legal and judicial costs—corrections alone costs \$81 billion annually. In 2010 violent crimes (murder, rape, assault, and robbery) cost Americans \$42 billion. In 2011, consumers lost an estimated \$1.5 billion to fraud. There is also an unknowable opportunity cost both financial and social. We cannot afford these upwardly trending costs in today’s economy. Research concludes that crime prevention initiatives that are cost effective; we can pay modest costs now or exorbitant ones later.

Crime Prevention in fiscal year 2015.—In an era of tightening budgets, investment in prevention initiatives reduces the need for government spending on intervention, treatment, enforcement, and incarceration. Therefore, investment in crime prevention has never been more critical. There is no doubt that when individuals, community groups, and businesses work closely with law enforcement to help keep watch over their communities, crime is prevented.

Though most crime prevention activities are local, the Federal Government sets the tone by promoting crime prevention strategies that work. It provides leadership through funding, education, technical assistance, and support for State and local programs. Research and identification of what works, and translation and transmission of evidence-based best practices and lessons learned to and among the field require national leadership.

Thank you again for allowing NCPC to submit written testimony and for your ongoing commitment to State and local crime prevention programs. NCPC is proud to have worked with Congress, DOJ, State and local law enforcement and other agen-

cies, and the private sector in the past, and we believe we can continue to be an effective partner going forward. As Congress continues its work to prevent crime, please consider NCPC and McGruff as a resource and as your active collaborators in building safer communities.

PREPARED STATEMENT OF THE NATIONAL ESTUARINE RESEARCH RESERVE
ASSOCIATION

Chairman and members of the subcommittee, my name is William Reay and I am the Director of the Chesapeake Bay National Estuarine Research Reserve in Virginia, administered by the Virginia Institute of Marine Science. I submit this testimony in my capacity as President of the National Estuarine Research Reserve Association (NERRA). NERRA is a not-for-profit scientific and educational organization dedicated to the protection, understanding, and science-based management of our Nation's estuaries and coasts.

For fiscal year 2015, NERRA strongly recommends the following reserve system programs and funding levels within the National Oceanic and Atmospheric Administration (NOAA):

NERRS Operations	\$22.9 million
NERRS Procurement, Acquisition, and Construction (PAC) ...	\$1.7 million

The National Estuarine Research Reserve System (NERRS) program and its sites bring the strength of NOAA science and stewardship to important coastal regions across the Nation. NERRS encompasses 28 protected reserves located in estuaries that are home to our most productive habitats and populated communities—that support science-based coastal resource management, research, and education to meet national priorities as mandated by Congress in the Coastal Zone Management Act (CZMA) of 1972. The States have been entrusted to operate and manage NOAA's program in 22 States and Puerto Rico, where over 1.3 million acres of land and water are protected in perpetuity. What distinguishes the NERRS is the community and State implementation of programs and local control of these places that form this Federal-State partnership program.

The administration's fiscal year 2015 request for the NERRS is a total of \$21.3 million. This amount will result in a reduction of funding to each State because a 29th reserve, located in Hawaii, will be added this year. Therefore, the administration's budget represents reduced funding to States from last year's appropriation (enacted fiscal year 2014 budget at \$21.3 million). After reviewing the detailed NOAA budget request sent to the Congress, it is clear that States implementing this national program are left short-changed in their ability to fulfill the vision of Congress in its creation of the NERRS program.

NERRA is deeply concerned with the administration's funding levels that we believe are inconsistent with key tenants of NOAA's own strategic plan—specifically, enhancing community and economic resiliency and strengthening science in support of coastal management. The administration's fiscal year 2015 requested funding level will diminish the NERRS's capacity to deliver important research, education and training to its State, local, and regional partners.

First, the administration budget requests flat-funds the program at the fiscal year 2014 level of \$21.3 million. Flat-funding in the face of the program adding a 29th reserve in fiscal year 2015 will in effect result in reduced budgets for each of the current reserves. This funding level is problematic because in addition to the new Hawaii reserve that is on track to join the system in fiscal year 2015, there are two more known—one in Louisiana, and one in Connecticut—in process for future years. Equally troubling is the absence of any mention of the expected expansions in NOAA's fiscal year 2015 budget submission. In addition to projected losses to the States operating NERRS sites, the administration's budget will mean less funding for science and monitoring of sea level rise change impacts at a time when community need is great.

Investments in the NERRS are dollar-smart because funding for the program is matched by the States and leveraged significantly, resulting in an average of more than five other local and State partners contributing to the work at each reserve. Funding of \$22.9 million for the NERRS would be a minimal level to provide each reserve with the necessary funding to assist our coastal communities, industries and resource managers to enhance coastal resiliency in a changing environment.

Second, within the budget request for NOAA, the administration is again proposing the elimination of funding for the Bay-Watershed Education and Training (B-WET) regional programs—a reduction of \$7.2 million in funding. The rationale provided for program reductions is misleading in stating that NOAA education expe-

riences will continue to be provided by programs including the NERRS. Where States are eligible for B-WET funding, reserves are able to increase their educational capacity by as much as 50 percent, as documented in the Chesapeake Bay NERR (VA) for example. NERRA strongly opposes the cut of B-WET regional programs and any of the other NOAA STEM educational programs.

MAKING COASTS MORE RESILIENT AND SAVING THE NATION DOLLARS THROUGH THE NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

NERRS assists our coastal communities, industries and resource managers to enhance coastal resiliency in a changing environment. As severe weather events become more common, Federal, State, and local officials are recognizing that estuaries have the capacity to provide green resilience infrastructure. Through NERRS, NOAA can tailor science and management practices to enable local planners to use estuarine habitat as a tool for resilience and adaptation.

Through science and science-based management of more than 1.3M acres of protected land, NERRS provides numerous benefits to communities that result in improved water quality, increased upland flood and erosion control, and improved habitat quality that support local fisheries and provide storm protection to coastal communities. The approximate \$10 million Federal contribution in science supports NERRS research and a coastal observing system capacity that informs regional policy that saves communities money. For example, research conducted by the Rookery Bay NERR at Naples, Florida, resulted in modified best management practice training for Florida's landscape industry, thus saving local businesses hundreds of thousands of dollars. It is important to emphasize that the work at each reserve goes beyond its property boundaries and creates a number of environmental and economic benefits for the communities and regions where they exist.

Additionally, NERRS supports community planning initiatives by providing training to local officials and residents about critical resource management issues such as impending hazards, storm water control, shoreline management, and habitat restoration. The NERRS training is designed to help people on the ground and to get resources in the hands of the community—all of which amount to saving States and local communities more than \$13.4 million annually.

The reserves have a tremendous positive impact on our economy including work to maintain clean water, keep the seafood and fishing industry viable, provide opportunities for local tourism, and provide communities with practical help and science-based information to address coastal hazards. Estuaries, where rivers meet the sea, provide nursery ground for two-thirds of commercial fish and shellfish. Protected and well managed estuaries including those managed by the NERRS keep commercial and recreational fishermen sustainable, contributing over \$2.7B to the shellfish and seafood industry in 2012 and 2009 respectively in States that have a reserve and over \$28 billion in ocean-dependent industries in 2011 along our coasts (Source: National Ocean Economic Program and NOAA Fisheries, Office of Science and Technology). In 2010, coastal counties that included a NERR supported more than 468,000 jobs in ocean-dependent industries (Source: Bureau of Labor Statistics; NOAA).

Protection of these important estuaries within the NERRS can have a significant impact on specific ecologically and economically important species. For example, Apalachicola Bay, Florida, home to one of three reserves in the State, produces approximately 90 percent of Florida's oyster harvest and 10 percent of the total U.S. harvest (Source: Wilber, 1992).

Beyond the economic benefits to our national, State, and local economies, reserves operate national infrastructure that brings science to the management of our coasts and helps our communities prepare for weather and accident related disasters. NERRS is a leader in coastal monitoring that provides immediate and long-term data to assess water quality in support of State environmental programs and water dependent industries, enhance understanding of harmful algal blooms, guide and track habitat restoration and reconstruction strategies, identify ecosystem impacts from changing sea levels and temperature, aid in weather and marine forecasting, and improve emergency and insurance industry response to storm surges and inundation.

Being integral members of coastal communities is a key element to NERRS successful delivery of science and monitoring data as evidenced in the Deep Water Horizon Oil Spill of 2010, a coastal area that is home to five reserves. We know that the billion dollar tourism and seafood industries depend upon clean water, and during the Deep Water Horizon Oil Spill crisis the communities and industries along the Gulf Coast relied on disaster support efforts including the wide variety of data supplied by the five Gulf Coast NERRs, some of which continues today.

Each reserve receives operation funds from NOAA that are matched by the States and are used to leverage significantly more private and local investments that results in each reserve having, on average, more than five program partners assisting to implement this national program. In addition, the program significantly benefits from volunteers that are engaged in habitat restoration, citizen science and education which offset operation costs at reserves by donating thousands of hours. Annually, volunteers contribute more than 100,000 hours to the NERRS with an estimated value of over \$2.2 million.

NERRS have made countless economic contributions to their local communities, States, and the Nation. In the aftermath of Superstorm Sandy, the Jacques Cousteau Reserve in New Jersey was cited by CNN as being “a natural sponge . . . for absorbing storm and tidal surges.” (November 3, 2012). In the category of eco-tourism, more than 2 million people annually visit the NERRS: an estimated more than \$20 million is generated annually in direct benefit from these visitor use opportunities (estimated using Federal, State, and local park entry fees). Visitors to our reserves walk and snowshoe the trails, paddle the waterways, watch wildlife, hunt and fish, engage in community stewardship and restoration programs, and participate in numerous public outreach activities and events at each of our 28 reserves.

In addition, NERRS strategically contributes more than \$4.9M annually in education relief to offset costs to communities that face tight budgets in meeting the needs of local school districts. Through Estuaries 101 curriculum, NERRS prepares the next generation workforce in the key disciplines of science, technology, engineering and math (STEM education). The B-WET regional program funding is money that is spent in addition to the annual NERRS money invested in the education programs. The NERRS educate more than 83,000 children annually.

The NERRS Procurement, Acquisition, and Construction (PAC) funding is designated for land conservation, through acquisition of priority lands, and essential facilities construction and upgrades. This competitive funding program is matched by State funds and has resulted in not only the preservation of critical coastal lands as described above, but also in the increase of construction jobs. For example NERRS creates more than 60 jobs for each \$1 million of Federal construction (PAC) money spent. In addition, NERRS leveraged investments of more than \$115 million to purchase over 30,000 acres of coastal property over the last 12 years.

CONCLUSION

NERRA greatly appreciates the past support the subcommittee has provided. This support is critical to sustain and increase the economic viability of coastal and estuary-based industries.

With NERRA’s fiscal year 2015 request of \$22.9 million for the NERRS and \$1.7 million for NERRS PAC, the program will be able to maintain delivery of credible scientific research that contributes to the resiliency of the natural and built communities and that yields a high rate of return to the 28, soon to be 29, coastal gems around the country. We urge the subcommittee to support this request, and to restore funding for the B-WET regional programs.

Thank you for the opportunity to present these remarks. On behalf of NERRA, I would be happy to answer questions or provide additional information to the subcommittee.

PREPARED STATEMENT OF THE NATIONAL MARINE SANCTUARY FOUNDATION

FISCAL YEAR 2015 APPROPRIATIONS REQUEST

The National Marine Sanctuary Foundation (NMSF) works with Congress and the National Oceanic and Atmospheric Administration (NOAA) to connect fellow citizens to the underwater places that define the American ocean—the National Marine Sanctuary System. We remain concerned that NOAA’s Office of National Marine Sanctuaries (ONMS) has not received sufficient appropriations for several budget cycles. Recognizing the coastal job creation benefits provided by sanctuaries, NMSF respectfully requests that the subcommittee remedy this situation by appropriating:

- \$5.5 million to the National Marine Sanctuary Program—Construction/Acquisition Base, within NOAA’s Procurement, Acquisition, and Construction account; and
- \$51 million to the Sanctuaries and Marine Protected Areas Base, within NOAA’s Operations, Research, and Facilities account.

Joining NMSF in this request is the national network of community-based, non-profit organizations that support sites within the sanctuary system. On behalf of

their members, the Channel Islands Sanctuary Foundation (California), Cordell Marine Sanctuary Foundation (California), Farallones Marine Sanctuary Association (California), Friends of Thunder Bay National Marine Sanctuary (Michigan), Hawai'i National Marine Sanctuary Foundation (Hawaii), Monterey Bay Sanctuary Foundation (California), Olympic Coast Alliance (Washington), Sanctuary Friends Foundation of the Florida Keys (Florida), and Stellwagen Alive! (Massachusetts) support funding the National Marine Sanctuary System at these levels (Appendix I).

While we recognize the challenges of providing increased funding in the current budget climate, we believe that the President's fiscal year 2015 budget request fails to address critical sanctuary contributions to job creation and economic growth. It also continues a disturbing trend of underfunding the sanctuary program—despite signals from Congress that the program warrants additional funds.

THE NATIONAL MARINE SANCTUARY SYSTEM AND NOAA'S OFFICE OF NATIONAL MARINE SANCTUARIES

Encompassing over 170,000 square miles of marine and Great Lakes waters, the National Marine Sanctuary System includes 13 national marine sanctuaries and Papahānaumokuākea Marine National Monument. Sanctuaries protect vibrant ocean ecosystems, conserve essential habitat for endangered and commercially important marine species, and safeguard historical and cultural resources.

Congress provides funding to ONMS through separate accounts for operations and procurement; both are vital components for maintaining a robust and effective sanctuaries program.

- The Operations, Research and Facilities (ORF) account funds operation of a variety of education, research, monitoring and management programs managed by ONMS, including development and implementation of research and monitoring programs, cultural resource programs, education and outreach activities; permitting; and management of volunteer programs and citizen advisory councils.
- The Procurement, Acquisition and Construction (PAC) account funds the purchase and overhaul/restoration of assets managed by ONMS, including construction of vessels, visitor facilities, and exhibits; development of partnerships for education and outreach; and safety improvements and repairs to NOAA-owned facilities.

NATIONAL MARINE SANCTUARIES ARE UNIQUE AND SUCCESSFUL OCEAN CONSERVATION TOOLS

Generations of Americans have grown up, worked jobs, and supported their families on the waters of our national marine sanctuaries. Among all the statutes enacted by Congress to govern ocean resources, the National Marine Sanctuaries Act stands alone in terms of the comprehensiveness, community participation, transparency and balanced approach provided for all stakeholders. An independent legal analysis concluded that “the National Marine Sanctuaries Act is the best existing mechanism available for preserving ocean ecosystems,” due to sanctuaries' commitment to public participation, community engagement, and use of a place- and ecosystem-based approach.¹

Unlike other ocean resource laws, the National Marine Sanctuaries Act protects nationally significant places and their natural, historical, and cultural riches. Experience shows that this approach is vital to maintaining the healthy seascapes that underpin our productive economies, supporting thousands of businesses while maintaining public access for recreation, research, and education.

NATIONAL MARINE SANCTUARIES ARE ECONOMIC ENGINES FOR COASTAL COMMUNITIES

National marine sanctuaries are vital to the success of coastal businesses and job creation. According to the National Ocean Economics Program, 70 percent of ocean and coastal employment in the tourism and recreation sector depend on visitor opportunities requiring clean beaches, clean water, and abundant fish and wildlife promoted by national marine sanctuaries. Benefits of funding national marine sanctuaries far outweigh the Federal outlays that support them:

¹Perkins Coie LLP. (2013) “Area-Based Management of Marine Resources: A Comparative Analysis of the National Marine Sanctuaries Act and Other Federal and State Legal Authorities.” Available: <http://www.nmsfocean.org/files/ABMReport.pdf>.

- Over 64,000 jobs and \$4.5 billion in GDP contributed annually from the marine tourism and recreation sector in the two counties adjacent to Florida Keys National Marine Sanctuary.²
- Over \$126 million in whale watching revenue and 600 jobs at 31 businesses resulting from less than \$2 million invested in the Stellwagen Bank National Marine Sanctuary off of Massachusetts.³
- 2,100 jobs and a \$291 million budget from marine science and education at the Monterey Bay National Marine Sanctuary, more than 100 times the \$3 million investment by taxpayers.⁴

NATIONAL MARINE SANCTUARIES START AND STAY IN LOCAL COMMUNITIES

Public participation is a hallmark of the sanctuary program. Coastal communities have a controlling influence on sanctuary priorities to ensure unique, local circumstances are addressed. All sanctuary rules and regulations are developed on a site-by-site basis, and, from the outset, sanctuaries are designed to accommodate multiple uses of the ocean.

National marine sanctuaries are created by and for the people: citizens and communities around the Nation recognized the benefits of sanctuaries and expressed strong interest in establishing sanctuaries in their own coastal waters. Over 700 Sanctuary Advisory Council representatives from the fishing, tourism, and maritime commerce industries; Tribes, State and local government; and researchers, educators, and conservationists help manage sanctuary operations. Over 100,000 hours are contributed by local sanctuary volunteers each year.

NATIONAL MARINE SANCTUARIES AND EDUCATION

Through education and outreach programs, sanctuaries function as living classrooms that provide students with the knowledge and tools to act as responsible ocean stewards. Science, technology, engineering and mathematics (STEM) education programs are a key part of national marine sanctuaries mission. Eliminating important education infrastructure, such as NOAA Office of Education's Bay Watershed Education and Training (B-WET) and NOAA's Teacher at Sea program, hinders the ability to deliver meaningful watershed education initiatives in sanctuaries.

We strongly encourage you to oppose any efforts to move or terminate the Dr. Nancy Foster Scholarship Program (NFSP). The direct connections between students and researchers in sanctuaries are critical for the effectiveness of the NFSP. While we support the administration's efforts to recognize efficiencies across STEM education initiatives, NFSP should remain administered by ONMS, as consistent with the National Marine Sanctuaries Act.

NATIONAL MARINE SANCTUARIES' PROGRAMMATIC OUTLOOK UNDER REDUCED FISCAL YEAR 2015 FUNDING LEVELS

Funding decreases and level-funding have resulted in layoffs and cutbacks to mission critical sanctuary programs. A lack of funds results in cuts to public access and recreation opportunities, cancellation of partnerships that leverage private funds for taxpayer benefit, and the dismantling of successful education initiatives. Budget cuts may result in reduced operations at visitor centers; a lack of contingency funding needed in case of emergencies like oil spills; and additional inoperable vessels. Of particular concern are proposals to reduce funding for necessary and ongoing renovation and construction projects.

The potential impact of reducing sanctuary appropriations goes far beyond the individual sanctuaries themselves: limiting visitor center hours, eliminating research programs, and diminishing enforcement capacities prevents ONMS from fulfilling its statutory mandates, while also reducing the economic activity and job creation from which healthy communities benefit. Funding sanctuaries below recommended levels could force the program to:

²National Ocean Economics Program. (2011) "Ocean Economy Data." Available: <http://www.oceaneconomics.org>.

³O'Connor, Simon *et al* (2009). Whale Watching Worldwide: tourism numbers, expenditures and expanding economic benefits, a special report from the International Fund for Animal Welfare. Prepared by Economists at Large. Available: http://www.ifaw.org/Publications/Program_Publications/Whales/asset_upload_file841_55365.pdf.

⁴Monterey Bay Crescent Ocean Research Consortium. (2012) "Major Marine Sciences Facilities in the Monterey Bay Crescent- 2012." Available: http://web.me.com/paduan/mbcor/Membership_Info_files/MontereyBayLabs2012-2.pdf.

Reduce public access and recreation opportunities for all Americans.—Funding cuts risk the Florida Keys National Marine Sanctuary's 767 mooring buoys, which provide public access and recreational opportunities within the sanctuary while protecting coral reefs and shipwrecks from anchor damage.

Restrict enforcement operations that protect legal fishermen.—Lack of funding jeopardizes on-water patrols for illegal fishermen in the Florida Keys National Marine Sanctuary. In a single 2013 case, illegal fishermen were charged with over 1,300 violations for pilfering 664 yellowtail snapper from a closed area that was shown to have provided benefits to both fish populations and commercial and recreational anglers.

Cut visitor center hours.—Sanctuary visitor centers act as a public face of NOAA to over 350,000 visitors per year, including Monterey Bay National Marine Sanctuary Exploration Center (California), Mokupāpapa Discovery Center (Hawaii), Great Lakes Maritime Heritage Center (Michigan), and Florida Keys EcoDiscovery Center (Florida).

Cancel education and outreach programs that leverage private funds.—Reduced funding jeopardizes education and outreach activities on the water, at sanctuaries and visitor centers, and in classrooms.

NOAA NEEDS SUFFICIENT FUNDS TO FULFILL ITS RESPONSIBILITIES TO THE AMERICAN PEOPLE

We strongly support the Friends of NOAA Coalition request to fund the agency at no less than \$5.6 billion in fiscal year 2015.—From weather forecasts to fisheries management, NOAA provides decision makers with critical data, products, and services that promote and enhance the Nation's economy, security, environment, and quality of life. Insufficient funding will only serve to diminish the economic activity and job creation that is successfully revitalizing communities across America.

JASON PATLIS,
President and CEO.

LETTER FROM THE NATIONAL MARINE SANCTUARY FOUNDATION, CORDELL MARINE SANCTUARY FOUNDATION, FARALLONES MARINE SANCTUARY ASSOCIATION, FRIENDS OF THUNDER BAY NATIONAL MARINE SANCTUARY, HAWAII NATIONAL MARINE SANCTUARY FOUNDATION, MONTEREY BAY & CHANNEL ISLANDS SANCTUARY FOUNDATIONS, OLYMPIC COAST ALLIANCE, SANCTUARY FRIENDS FOUNDATION OF THE FLORIDA KEYS, AND STELLWAGEN ALIVE!

APRIL 25, 2014.

HON. BARBARA MIKULSKI,
Chairwoman, Appropriations
Subcommittee on Commerce, Justice,
Science, Dirksen Senate Office
Building, Washington, DC.

Hon. RICHARD C. SHELBY,
Ranking Member, Appropriations
Subcommittee on Commerce, Justice,
Science, Hart Senate Office Building,
Washington, DC.

Dear Chairwoman Mikulski and Ranking Member Shelby:

As Congress begins negotiations on the fiscal year 2015 Commerce, Justice, Science, and Related Agencies Appropriations bill, we respectfully request that you prioritize programmatic requests for:

- National Marine Sanctuary Program—Construction/Acquisition, within the National Oceanic and Atmospheric Administration's (NOAA) Procurement, Acquisition, and Construction (PAC) account at a level of \$5.5 million; and
- Sanctuaries and Marine Protected Areas Base, within NOAA's Operations, Research, and Facilities (ORF) account, at a level of \$51 million.

We are deeply concerned by recent decreases to sanctuaries' PAC account, which result in multiple, unfinished construction projects, and prevent NOAA's Office of National Marine Sanctuaries (ONMS) from acquiring the vessels necessary to complete core research, education, and law enforcement missions that simply cannot be accomplished from land alone. Facilities supported by PAC funds anchor tourism and recreation economies and serve as the public face of the government's ocean management. We strongly encourage you to support PAC funds that provide critical links between our ocean and the millions of Americans who visit the coast each year.

Among all the statutes enacted by Congress to govern ocean resources, the National Marine Sanctuaries Act stands alone for its comprehensive, community-driven, transparent and balanced approach. While seeking to sustainably protect resources within sanctuaries, the law allows compatible commercial and recreational activities. Sanctuaries serve as economic engines for our communities and busi-

nesses, supporting thousands of jobs and generating billions of dollars in local revenues. Sanctuaries serve as living laboratories for research and centers for civic pride.

Sanctuaries are making essential contributions to marine ecosystem health and coastal job creation, and sufficient ORF funding will allow ONMS to sustain progress to date. ONMS has not received adequate appropriations in past budget cycles, despite the program's increased responsibilities. Lack of funds will force ONMS to cut public access and recreation opportunities, cancel collaborative efforts with museums and universities that leverage private funds for taxpayer benefits, and terminate education initiatives. We strongly encourage you to ensure that funding for these priorities is added to the base level for the Marine Sanctuary Program.

Closing visitor centers, eliminating research programs, diminishing enforcement capacities, and abolishing education initiatives will prevent ONMS from implementing management plans—driven and informed by local communities—for yet another year. We strongly urge you to remedy this situation by supporting an overall appropriation of \$56.5 million for sanctuaries in fiscal year 2015.

Thank you for your consideration. We wish you all the best for the remainder of the 113th Congress.

Sincerely,

Jason Patlis, National Marine Sanctuary Foundation; Tom Lambert, Cordell Marine Sanctuary Foundation; Chris Kelley, Farallones Marine Sanctuary Association; Charles N. Wiesen, Friends of Thunder Bay National Marine Sanctuary; Lynette Poncin, Hawai'i National Marine Sanctuary Foundation; Dennis J. Long, Monterey Bay & Channel Islands Sanctuary Foundations; Jill Silver, Olympic Coast Alliance; George Neugent, Sanctuary Friends Foundation of the Florida Keys; and William Grafton, Stellwagen Alive!

PREPARED STATEMENT OF THE NATIONAL NETWORK TO END DOMESTIC VIOLENCE

Chairwoman Mikulski, Vice Chairman Shelby and distinguished members of the Appropriations Committee, thank you for this opportunity to provide testimony on the importance of investing in Violence Against Women Act programs and the Victims of Crime Act. I sincerely thank the Committee for its ongoing support for these lifesaving programs.

I am the President and CEO for the National Network to End Domestic Violence (NNEDV), the Nation's leading voice for victims of domestic violence and their advocates. We represent the 56 State and territorial domestic violence coalitions, their over 2,000 member domestic violence and sexual assault programs, and the millions of victims they serve. Our direct connection with victims and those who serve them gives us a unique understanding of their needs and the vital importance of these continued investments.

The purpose of this testimony is to request an investment of the full authorized amount of \$569.5 million in the Violence Against Women Act (VAWA) and the release of \$1.5 billion from the Victims of Crime Act Fund administered by the U.S. Department of Justice in the fiscal year 2015 Budget.

Incidence, Prevalence, Severity and Consequences of Domestic and Sexual Violence.—The crimes of domestic and sexual violence are pervasive, insidious and life-threatening. In 2011, the Centers for Disease Control and Prevention (CDC) released the first-ever National Intimate Partner and Sexual Violence Survey, which found that domestic violence, sexual violence, and stalking are widespread. Domestic violence affects more than 12 million people each year, and nearly three in ten women and one in four men have experienced rape, physical violence, or stalking in his or her lifetime. The terrifying conclusion of domestic violence is often murder, and every day in the U.S. an average of three women are killed by a current or former intimate partner.¹ The cycle is perpetuated as approximately 15.5 million children are exposed to domestic violence every year.² One study found that men exposed to physical abuse, sexual abuse and adult domestic violence as children were almost four times more likely to have perpetrated domestic violence as adults.

In addition to the terrible cost of domestic and sexual violence to individual victims and their families, these crimes cost taxpayers and communities. According to the Centers for Disease Control, based on 1999 figures, the cost of intimate partner

¹Bureau of Justice Statistics (2008). Homicide Trends in the U.S. from 1976–2005. U.S. Dept. of Justice.

²McDonald, R., et al. (2006). "Estimating the Number of American Children Living in Partner-Violence Families." *Journal of Family Psychology*, 30(1), 137–142.

violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct healthcare services.³ Translating this into 2012 dollars, based on share of GDP, the annual cost to the Nation is over \$9 billion per year, more than two-thirds of which is for direct healthcare services. In addition, domestic violence costs U.S. employers an estimated \$3 to \$13 billion annually.⁴

Despite this grim reality, we know that when a coordinated response is developed and immediate, essential services are available, victims can escape from life-threatening violence and begin to rebuild their lives. To address unmet needs and build upon their successes, VAWA programs and the Victims of Crime Act fund release should receive significant increases in the fiscal year 2015 Commerce, Justice, Science Appropriations bill.

The Need for Increased Funding to Maintain Programs and Bridge the Gap.—At a Congressional briefing in March, NNEDV released Domestic Violence Counts (the Census), a 24-hour national snapshot of domestic violence services. The report revealed that in just one day in 2013, while more than 66,000 victims of domestic violence received services, over 9,640 requests for services went unmet due to lack of funding and resources. In 2013, domestic violence programs reported that they had laid off nearly 1,700 staff positions, including counselors, advocates and children's advocates, and also had to reduce or completely eliminate over 1,280 services, including emergency shelter, legal advocacy, and counseling. I strongly encourage you to read the Census at www.nnedv.org/census2013 to learn more. Additionally, since 2011, at least 19 local domestic violence programs have been forced to close entirely and sequestration meant that approximately 140,000 more victims were unable to access services last year.

For those individuals who are not able to find safety, the consequences can be dire, including homelessness or continued exposure to life-threatening violence. In order to meet the immediate needs of victims in danger and to continue to prevent and end domestic violence, VAWA funding must be increased and additional funds must be released from VOCA.

VIOLENCE AGAINST WOMEN ACT (VAWA)

Violence Against Women Act (VAWA)—\$569.50 million funding request.—Since its passage in 1994, VAWA has been the cornerstone of our Nation's response to domestic violence. Now in its 20th year, VAWA has contributed to substantial progress toward ending domestic violence. Despite this progress, an unconscionable need remains for victim services. The progress and promise of VAWA, and related programs aimed at addressing domestic and sexual violence, can only be only be fulfilled if the programs receive continued investment through the appropriations process. We have highlighted the following programs as key priorities and we urge you to support full funding for these and all VAWA programs as you work on the fiscal year 2015 CJS bill.

VAWA STOP Program—\$222 million funding request.—VAWA's STOP Grant Program is at the core of effective coordinated community responses to domestic violence and sexual assault. These coordinated responses help hundreds of thousands of victims find safety and get the services they need to start over, while holding perpetrators accountable. As the foundational VAWA program, the STOP program awards funds to every State and territory through a formula-based system. States use this STOP funding for law enforcement, prosecution, and courts training and response. Many States establish special units in law enforcement agencies and prosecutors' offices to address domestic and sexual violence. Victims benefit from services including advocacy, crisis intervention, local crisis hotlines, counseling and support, and victim witness notification. We urge you to provide \$222 million to support these essential, comprehensive services.

Additionally, we urge you to include report language that would exempt the STOP program from the Prison Rape Education Act (PREA) penalty, which would cut 5 percent of the STOP funding in States that are not in compliance with PREA.

Legal Assistance for Victims (LAV)—\$57 million funding request.—Research indicates that the practical nature of legal services gives victims long-term alternatives to their abusive relationships. However, the retainers or hourly fees for private legal representation are beyond the means of most victims of domestic violence, dating violence, sexual assault and stalking. In fact, almost 70 percent of all victims are

³National Center for Injury Prevention and Control. *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta (Georgia): Centers for Disease Control and Prevention; 2003.

⁴Bureau of National Affairs Special Rep. No. 32, *Violence and Stress: The Work/Family Connection 2* (1990); Joan Zorza, *Women Battering: High Costs and the State of the Law*, *Clearinghouse Rev.*, Vol. 28, No. 4, 383, 385.

without legal representation. The Civil Legal Assistance for Victims Program is the only federally funded program designed to meet the legal needs of victims. Due to the high demand for these services, the Office on Violence Against Women receives almost 300 applications per year, and only one-third of these are funded. Last year, funding for LAV was cut by \$4 million despite its efficacy and the great demand for these services. Targeted increases to the LAV program are a sound investment in long-term solutions to violence. We urge you to provide \$57 million for this program.

Rural Grant program—\$50 million funding request.—The Rural Grant Program supports services for victims of domestic violence and sexual assault living in rural and isolated areas. Rural victims face unique barriers including lack of access to child care, legal services, and public transportation, under-resourced law enforcement, and a shortage of safe shelter and services. Funding for this program has either been cut or remained stagnant for the last several years despite the great need and a number of States becoming newly eligible through the most recent VAWA reauthorization. We urge you to provide \$50 million for this program.

Transitional Housing program—\$35 million funding request.—This vital VAWA program helps communities in every State offer victims a safe place to begin to rebuild their lives. In just one day in 2013, 5,270 adults and 7,561 children were housed in domestic violence transitional housing programs. On the same day, however, 5,778 requests (60 percent of the unmet requests) for emergency shelter or transitional housing were denied due to a lack of capacity. The extreme dearth of affordable housing produces a situation where many victims of domestic violence must return to their abusers because they cannot find long-term housing, while others are forced into homelessness. Increased investment in the Transitional Housing program will allow more States and localities to ensure that victims do not have to make these unfathomable choices. We urge you to provide \$35 million for this program.

Grants to Encourage Arrest (GTEAP)—\$73 million funding request.—GTEAP helps communities develop and sustain a seamless and comprehensive criminal justice response to domestic violence, enhancing victims' safety and holding perpetrators accountable. GTEAP encourages State, local, and tribal governments and State, local, and tribal courts to treat domestic violence, dating violence, sexual assault, and stalking as serious violations of criminal law requiring the coordinated involvement of the entire criminal justice system. The homicide reduction initiative set aside (\$4 million) is designed to address the risk of homicide of abuse victims, especially those in escalating domestic violence situations. Increased investment in GTEAP at \$73 million will allow communities to continue this lifesaving work.

Sexual Assault Services Program—\$40 million funding request.—The Sexual Assault Services Program (SASP) is the only Federal funding source dedicated to providing direct services to adult and minor victims of sexual violence and is distributed through a State formula grant. Services include hotlines, crisis intervention, advocacy, and accompaniment through medical and legal systems. Increased funding will help eliminate waiting lists and respond to the unmet needs of victims. We urge you to provide \$40 million for this vital program.

Remaining VAWA programs—full funding (see chart below).—All VAWA programs work together to improve the system-wide response domestic and sexual violence and to meet the unique and pressing needs of victims. VAWA programs should be funded at their full authorization levels, as indicated in the table below.

VAWA AND OTHER RELATED PROGRAMS—Appropriations for Fiscal Years 2012, 2013, 2014, and 2015—Campaign for Funding to End Domestic and Sexual Violence

[All numbers are expressed in millions.]—Updated: March 6, 2014

Name of Grant Program	Fiscal year 2012 budget	Fiscal year 2013 budget	Fiscal year 2013 reduced by sequestration and rescissions ¹	Fiscal year 2014 budget	President's fiscal year 2015 budget	Authorized level
COMMERCE, JUSTICE, SCIENCE APPROPRIATIONS						
STOP—Grants to Combat Violence Against Women	\$189.00	\$189.00	\$176.18	\$193.00	\$193.00	\$222.00
Sexual Assault Services Program (SASP)	23.00	25.00	23.30	27.00	27.00	40.00
Services for Rural Victims	34.00	36.50	34.02	36.00	33.00	50.00

VAWA AND OTHER RELATED PROGRAMS—Appropriations for Fiscal Years 2012, 2013, 2014, and 2015—Campaign for Funding to End Domestic and Sexual Violence—Continued

[All numbers are expressed in millions.]—Updated: March 6, 2014

Name of Grant Program	Fiscal year 2012 budget	Fiscal year 2013 budget	Fiscal year 2013 reduced by sequestration and rescissions ¹	Fiscal year 2014 budget	President's fiscal year 2015 budget	Authorized level
Civil Legal Assistance for Victims	41.00	41.00	38.22	37.00	42.50	57.00
Transitional Housing (OVW)	25.00	25.00	23.30	24.75	25.00	35.00
Grants to Encourage Arrest Policies ²	50.00	50.00	46.61	50.00	50.00	73.00
CHOOSE Youth Program ³	5.00	5.00	4.66	5.00	5.00	15.00
SMART Program ³	5.00	5.00	4.66	5.00	5.00	15.00
Grants to Support Families in the Justice System	16.00	15.00	14.45	15.00	16.00	22.00
Violence on College Campuses (Campus Grants)	9.00	9.00	8.39	9.00	11.00	12.00
Protections and Services for Disabled Victims	5.75	5.75	5.36	5.75	5.75	9.00
Elder Abuse Grant Program	4.25	4.25	3.96	4.25	4.25	9.00
National Institute of Justice (NIJ) Research on Violence Against Indian Women	3.00	3.50	3.26	3.25	3.00	—
National Resource Center on Workplace Responses	1.00	1.00	0.93	1.00	1.00	1.00
Nat'l Clearinghouse on Sexual Assault of American Indian and Alaska Native Women	1.00	0.50	0.47	0.50	0.50	1.00
Outreach to Underserved Populations	0.50	0.50	0.47	0.50	0.50	0.50
National Tribal Sex Offender Registry	0.00	0.00	0.00	0.00	—	2.00
Tribal Jurisdiction	0.00	0.00	0.00	0.00	—	1.00
	—	—	—	—	—	5.00
VAWA CJS Total	412.50	416.00	388.24	417.00	422.50	569.50

	Fiscal year 2012 budget	Fiscal year 2013 budget	Fiscal year 2013 reduced by sequestration	Fiscal year 2014 budget	President's fiscal year 2015 budget	Funding request
VOCA Fund Cap ⁴	\$705.00	\$730.00	N/A	\$745.00	\$810.00	\$1.50B
State Victim Assistance Grants	379.00	425.20	N/A	—	—	500.00
Tribal VOCA Funding Stream	—	—	—	—	20.00	20.00
Vision 21 & Trafficking Initiatives	—	—	—	12.50	35.00	35.00

Name of Grant Program	Fiscal year 2012 budget	Fiscal year 2013 budget	Fiscal year 2013 reduced by sequestration and rescissions ¹	Fiscal year 2014 budget	President's fiscal year 2015 budget	Authorized level
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LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS

ADMINISTRATION FOR CHILDREN AND FAMILIES

Family Violence Prevention and Services Act (FVPSA) ⁵ / Domestic Violence Shelters	\$129.50	\$129.50	\$121.19	\$133.50	\$135.00	\$175.00
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Name of Grant Program	Fiscal year 2012 budget	Fiscal year 2013 budget	Fiscal year 2013 reduced by sequestration and rescissions ¹	Fiscal year 2014 budget	President's fiscal year 2015 budget	Authorized level
National Domestic Violence Hotline ⁵	3.20	3.20	3.04	4.50	5.00	5.00
CENTERS FOR DISEASE CONTROL						
Rape Prevention and Education	\$41.70	\$41.70	\$39.39	\$38.00	\$38.00	\$50.00
DELTA—Domestic Violence Prevention Enhancement and Leadership Through Alliances ⁵	5.40	5.40	5.13	5.20	5.20	6.00
Preventive Health and Health Services Block Grant (PHHSBG) Sex Offense Set-Aside ⁶	7.00	7.00	7.00	7.00	0.00	7.00
OFFICE ON WOMEN'S HEALTH						
Violence Against Women Health Initiative	\$2.30	\$2.30	\$2.30	\$2.30	\$2.30	\$10.00
L-HHS Total	189.10	189.10	178.05	190.50	185.50	253.00

PLEASE NOTE: This chart will continue to be updated throughout the fiscal year 2015 Appropriations process.

Updates can be found at www.nnedv.org/funding.

¹ Rescissions and sequestration: The L-HHS programs were reduced by a 0.189 percent across the board cut for fiscal year 2012. In fiscal year 2012, VAWA DOJ programs were subject to an across-the-board rescission of 1.877 percent. In fiscal year 2013, most discretionary programs, including those at OWW, were subjected to Sequestration cuts between 5–7 percent. Also, in fiscal year 2013 and fiscal year 2014, the final bills each included a \$12 million rescission from OWW from unobligated or deobligated funds.

² In fiscal years 2012, 2013, and 2014, and in the President's fiscal year 2015 budget, \$4 million has been set aside in GTEAP for a homicide reduction initiative.

³ VAWA 2013 consolidated youth and prevention programs into two programs. Appropriations funded these programs as one consolidated program for the past several years. The chart above divides the amounts given to the Consolidated Youth program into the two new programs to demonstrate the funding history. Both the President's fiscal year 2014 budget and the final fiscal year 2014 bill consolidated these programs and funded them at \$10 million overall. This chart estimates that roughly \$5 million will be spent on each.

⁴ VOCA Notes: State victim assistance grants are a portion of the total VOCA "cap" and are distributed to States on a population-based formula. The total annual amount for State victims assistance grants is determined by a formula and is not specified in Appropriations bills or Presidential budgets. We highlight this portion of VOCA because it funds local victim service programs and is a priority for the field. Vision 21: The President's fiscal year 2014 and fiscal year 2015 Budgets proposed setting aside \$25 million dollars from the amount of money released from the VOCA fund for the Vision 21 initiative, \$20 million for tribal victim services and \$10 million to address trafficking. In the final fiscal year 2014 bill, Congress appropriated \$12.5 million for the Vision 21 initiative from its general CJS funds and not as a set-aside of VOCA funds. We support \$35 million for Vision 21 through CJS funds. Tribal funding: We support the President's request for a VOCA Tribal funding set-aside.

⁵ FVPSA, the National Domestic Violence Hotline, and DELTA are authorized through the Family Violence Prevention and Services Act (FVPSA).

⁶ PHHSBG is authorized through the Public Health Services Act and includes a mandatory set-aside for providing services to rape victims and for rape prevention. The sex-offense set-aside was not cut by sequestration in 2013.

VICTIMS OF CRIME ACT (VOCA) FUNDING

VOCA uses non-taxpayer money from the Crime Victims Fund for programs that serve victims of crime, including State formula victim assistance grants. These funds, which are generated by fines paid by Federal criminals, provide support for services to four million victims of all types of crimes annually, through 4,400 direct service agencies such as domestic violence shelters, rape crisis centers, and child abuse treatment programs. Additional VOCA funds are critically needed to respond to the crisis caused by the dangerous lack of services for victims of domestic and sexual violence.

With an obvious need for increased funding, and a more than ample balance of at least \$11 billion in the Fund, now is the time to establish a long-term, logical and consistent basis for determining the annual VOCA cap in order to release additional money for the purpose Congress intended and for which it has been collected. The balance in the Crime Victims Fund is more than enough to significantly increase VOCA funding without jeopardizing the Fund's future sustainability.

We urge you to request that the committee set the annual VOCA funding release level at no less than the amount deposited into the Fund during the previous full fiscal year. This number is approximately \$1.5 billion for fiscal year 2014. We urge you to release \$1.5 billion from the VOCA fund in fiscal year 2015 to address the needs of victims of crime.

In addition, once at least \$500 million is guaranteed for the State victim assistance grants, we request that there also be a Native American tribal funding stream for victim services. We also request funding for the Office for Victims of Crime's Vision 21 Initiative through CJS appropriations.

CONCLUSION

These programs work together to prevent and end domestic and sexual violence. While our country has made continued investments in the criminal justice response to these heinous crimes, we need an equal investment in the human service, public health and prevention responses in order to holistically address and end the violence. These vital, cost-effective programs help break the cycle, reduce related social ills, and will save our Nation money now and in the future.

PREPARED STATEMENT OF THE NATIVE AMERICAN RIGHTS FUND

The Native American Rights Fund (NARF)¹ submits this written statement for the record. We respectfully request this subcommittee's consideration as you develop the fiscal year 2015 Commerce, Justice, Science and Related Agencies appropriations bill of maintaining funding within the Department of Justice (DOJ), the Office of Justice Program's State and Local Law Enforcement Assistance account, at approximately \$3 million as provided in recent years to the Bureau of Justice Assistance (BJA), within assistance to Indian tribes, for the Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance grant program.

Twenty-five Indian Legal Services programs, which are the Indian program components of the Legal Services Corporation, operate in 23 States. They annually provide both civil and criminal legal representation in tribal courts to hundreds of individual Native American clients, including juveniles, who meet Federal poverty guidelines.² Legal work encompasses a broad array of cases, including domestic violence, *pro se* assistance, family member prisoner visitation and re-entry, child welfare and adoption, employment and home foreclosure assistance.

In addition to individual representation, these Indian Legal Services programs are currently assisting more than 160 tribes and/or tribal judicial systems in such activities as tribal court development and improvement, development of tribal dispute resolution and peacemaker/mediation systems, drafting of civil and criminal codes and rules of procedure and other structural development for court implementation, and training of tribal court and justice systems personnel and tribal court lay advocates and guardians *ad litem*.

Specific project examples with recent funding from BJA include a State-wide tribal court support group; a video-conferencing system for court appearance; development of Domestic Violence ordinances; work with a newly-established Tribal Wellness Drug and Alcohol Court; helping to review a tribal criminal and juvenile justice system and to recommend reforms based on traditional tribal values and restorative justice concepts; assisting juvenile clients who have severe truancy, chemical dependency, and mental health issues to receive education, treatment, counseling, and other holistic wraparound services to avoid out of home placements and further criminal/delinquent behavior and consequences; and partnering with a tribal court and tribal college on a tribal advocacy certificate program.

In many instances, these Indian Legal Services programs have been "on the ground," in these tribal communities, for decades, an integral part of the legal structure of the reservation communities they serve. The programs' representation of individual tribal citizens and training for and assistance to tribal governments and tribal judicial systems help keep citizens safe, help assure that tribal justice systems are grounded in solid codes and laws so that those communities can better attract business investments, and provide economic opportunities by training tribal citizens to work in the justice system as advocates and judges. The Indian Legal Services

¹Founded in 1970, the Native American Rights Fund (NARF) is the oldest and largest non-profit law firm dedicated to asserting and defending the rights of Indian tribes, organizations and individuals nationwide. NARF's practice is concentrated in five key areas: the preservation of tribal existence; the protection of tribal natural resources; the promotion of Native American human rights; the accountability of governments to Native Americans; and the development of Indian law and educating the public about Indian rights, laws, and issues.

²In 2000, Congress enacted the Indian Tribal Justice Technical and Legal Assistance Act (Public Law 106-559), which specifically authorized the Department of Justice to provide grants to "non-profit entities . . . which provide legal assistance services for Indian tribes, members of Indian tribes, or tribal justice systems pursuant to Federal poverty guidelines" [emphasis added]. The Indian Tribal Justice Technical and Legal Assistance Act of 2000 was reauthorized through fiscal year 2015 as part of the Tribal Law and Order Act (Public Law 111-211).

programs' work in developing and strengthening the institutions of tribal justice and creating a solid legal infrastructure on the reservations ultimately builds sustained economic opportunity and growth in those tribal communities.

Between fiscal year 2010 and fiscal year 2013, these Indian Legal Services programs have competed with other non-profit entities and received grant funding under DOJ's Office of Justice Programs' Bureau of Justice Assistance's Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance (TCCLA) grant program to supplement Legal Services Corporation resources and other Federal grant funds in order to expand services to tribal citizens and tribal justice systems.³ The Native American Rights Fund serves as the administering agency for these grant funds to the National Association of Indian Legal Services (NAILS), an umbrella association of the Indian Legal Services programs.

The fiscal year 2014 Consolidated Appropriations Act (Public Law 113-76) provided \$30 million for "assistance to Indian tribes." We have not yet learned in full detail how DOJ intends to allocate these funds. However, we note that the reports of both the House and Senate Appropriations Committees accompanying your stand-alone fiscal year 2014 CJS appropriations bills directed again that DOJ allocate fiscal year 2014 funds based on tribal consultation for such purposes as tribal courts, alcohol and substance abuse reduction grants, tribal detention facilities, and tribal civil and criminal legal assistance. We are hopeful that this report language will encourage the Department to allocate some fiscal year 2014 funding for the TCCLA grant program.

With respect to the fiscal year 2015 budget request, the administration has again proposed bill language in General Provisions—Department of Justice for several set-asides for DOJ funding, including a set-aside of 7 percent for tribal criminal (note: not criminal AND civil, as provided now, through TCCLA) justice assistance.

Because the Indian Legal Services programs are not tribal governments, and do not want to have to compete with tribes for DOJ funding,⁴ what is most helpful is to have a specific funding amount for tribal civil and criminal legal assistance, a reference to the authorizing statute that allows DOJ to award grants for these services (Public Law 106-559), and a mention of the inclusion of the purpose of providing tribal civil and criminal legal assistance.

If in fiscal year 2015, as in fiscal year 2014, (though at a lesser percentage than the administration requested), the Senate Appropriations Committee should agree with DOJ's request for a tribal set-aside, or if, as under the final fiscal year 2014 Consolidated Appropriations Act, you should, instead, provide an overall "lump sum" amount to OJP for "assistance to Indian tribes," we would ask for your consideration of report language, as included in recent years, that would encourage DOJ to make some funding available to non-tribal governmental entities such as Indian Legal Services programs for the purpose of the provision of tribal civil and criminal legal assistance services.

Prior years' instructive report language of the Appropriations Committees has directed the Office of Justice Programs to consult with tribal stakeholders in determining how the overall amount of funding for tribal assistance will be allocated, and has specifically mentioned tribal civil and criminal legal assistance. That report language has been helpful in ensuring that the Department of Justice provide approximately \$3 million in funding to the Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance grant program, for which Indian Legal Services has competed for funding awards.

Funding of approximately \$3 million should be appropriated in fiscal year 2015, as in recent years, for tribal civil and criminal legal assistance, and tribal court development work, as undertaken by Indian Legal Services programs. Thank you for your attention to and consideration of this submission.

³In fiscal year 2010, under TCCLA, NAILS was awarded \$1.25 million for civil legal assistance and \$1.1 million for criminal legal assistance; in fiscal year 2011, NAILS was awarded \$536,363 for tribal civil legal assistance, and \$1.1 million for tribal criminal legal assistance; in fiscal year 2012, NAILS was awarded \$850,659 for tribal civil legal assistance, and \$875,000 for tribal criminal legal assistance; and in fiscal year 2013, NAILS was awarded \$715,944 for tribal civil legal assistance, and \$515,940 for tribal criminal legal assistance. We are awaiting announcement of an fiscal year 2014 solicitation, upon which the Indian Legal Services programs plan to submit applications for both tribal civil and criminal legal assistance for fiscal year 2014 funding.

⁴Having to compete with tribal governments for a portion of the overall DOJ funds for Indian Country assistance is, as a policy matter, something that the Indian Legal Services programs have worked hard over the years to avoid, and which led us to get the initial authorizing legislation enacted in 2000, Public Law 106-559.

PREPARED STATEMENT OF THE NORTHWEST INDIAN FISHERIES COMMISSION

Mr. Chairman and members of the subcommittee, thank you for the opportunity to provide testimony on the National Oceanic and Atmospheric Administration fiscal year 2015 appropriations. My name is Billy Frank, Jr. and I am the Chairman of the Northwest Indian Fisheries Commission (NWIFC). The NWIFC is comprised of the 20 tribes that are party to the *United States v. Washington*¹ (*U.S. v. Washington*). I am providing written testimony for the record in support of funding for the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) and National Ocean Service (NOS).

SUMMARY OF FISCAL YEAR 2015 APPROPRIATIONS REQUESTS

- \$110.0 million for the Pacific Coastal Salmon Recovery Fund (NOAA/NMFS)
- \$14.7 million for the Pacific Salmon Treaty, including the Additional \$3.0 million for the 2008 Chinook Salmon Agreement (NOAA/NMFS)
- \$15.8 million for the Mitchell Act Hatchery Program (NOAA/NMFS)
- \$20.0 million for the Regional Ocean Partnership Grants Program (NOAA/NOS)

We are generally pleased with the President's fiscal year 2015 budget request as it establishes a good starting point. However, it's just that—a starting point—much more needs to be done. It promotes a strong stewardship in sustaining our vital natural resources. The natural resources that we depend on are vital to our tribal communities, economies and jobs. The President's budget provides for economic growth by paying for new investments while protecting the environment. Our economy depends on a healthy natural environment. The land and the many natural resources we depend on are a necessity for our communities to thrive. We need to continue to improve the condition of our changing environment for the benefit of future generations.

The western Washington treaty tribes brought to the Federal Government our Treaty Rights at Risk (TRAR) initiative almost 3 years ago. We are slowly creating change in the manner in which government agencies operate but it has not yet been enough to change the trajectory of salmon recovery in our region from a negative to a positive direction. In this initiative we asked the Federal Government to take charge of salmon recovery because it has the obligation and authority to ensure both the recovery of salmon and the protection of tribal treaty rights. We requested that the Federal Government implement their fiduciary duties by better protecting salmon habitat and the tribes' treaty-reserved resources. The treaty-reserved right of the western Washington treaty tribes to harvest salmon is at risk. The danger exists due to diminishing salmon populations, which limits or eliminates our right to harvest. All of this is due to the inability to restore salmon habitat faster than it is being destroyed. Wild salmon and their habitat continue to decline despite massive reductions in harvest and a significant investment in habitat restoration. We have all made a huge investment in the recovery of salmon and their habitat. These good investments must continue and will contribute to recovery as we work to slow down the continued loss of habitat. Fulfilling these Federal obligations is not an option and by addressing our TRAR—we will recover the salmon populations.

Adequate funding is needed in order to restore salmon habitat. A critical funding source for this work is the Pacific Coastal Salmon Recovery Fund (PCSRF). The PCSRF assists tribes in the implementation of salmon recovery plans and moves us in the direction of achieving the recovery goals, which is a direct request in our TRAR initiative. As Congress considers the fiscal year 2015 budget, we ask you to consider our requests that are further described below.

JUSTIFICATION OF REQUESTS

Provide \$110.0 million for NOAA Pacific Coastal Salmon Recovery Fund

We support the restoration of the PCSRF to the \$110.0 million level, an increase of \$60.0 million over the President's request. These funds have decreased from the peak of \$110.0 million in fiscal year 2002. We continue to support the original congressional intent of these funds that would enable the Federal Government to fulfill its obligations to salmon recovery and the treaty fishing rights of the tribes.

The PCSRF is a multi-State, multi-tribe program established by Congress in fiscal year 2000 with a primary goal to help recover wild salmon throughout the Pacific coast region. The PCSRF supports projects that restore, conserve and protect Pacific salmon and steelhead and their habitats. PCSRF is making a significant contribu-

¹*United States v. Washington*, Boldt Decision (1974) reaffirmed Western Washington Tribes' treaty fishing rights.

tion to the recovery of wild salmon throughout the region by financially supporting and leveraging local and regional efforts. Salmon restoration projects not only benefits fish populations and their habitat but provides much needed jobs for the local communities.

The tribes' overall goal in the PCSRF program is to restore wild salmon populations. The key tribal objective is to protect and restore important habitat in Puget Sound and along the Washington coast that is essential for western Washington tribes to exercise their treaty-reserved fishing rights consistent with *U.S. v. Washington* and *Hoh v. Baldrige*² and also promotes the recovery of ESA listed species and other salmon populations. These funds support policy and technical capacities for tribes to plan, implement, and monitor recovery activities. The tribes use these funds to support the scientific salmon recovery approach that makes this program so unique and important. In addition to watershed restoration and salmon recovery work they also help fund fish hatchery reform efforts to allow for the exercise of tribal treaty fishing rights. It is for these reasons that the tribes strongly support the PCSRF.

Provide \$14.7 million for NOAA Pacific Salmon Treaty, including the Additional \$3.0 million associated with the 2008 Chinook Salmon Agreement

We support the Pacific Salmon Commission (PSC)/U.S. Section's request of \$14.7 million, an increase of \$3.9 million over the President's request. We also support as part of their request \$1.5 million for the Puget Sound Critical Stock Augmentation Program and \$1.5 million for the Coded Wire Tag (CWT) Program as required by the 2008 Pacific Salmon Treaty (PST) Chinook Annex Agreement. The Puget Sound Critical Stock funding covers the operation and maintenance costs for the hatchery augmentation programs established for Dungeness, Stillaguamish, and Nooksack Chinook. These hatchery efforts were initiated in connection with the 2008 Chinook Agreement of the U.S./Canada PST as the conservation needs of these populations could not be met by harvest restriction actions alone. The CWT funding allows for continued maintenance and efficiency improvements of the coast-wide CWT program. This is essential for the sustainability and management of our fisheries resources. Currently there is not enough funding allocated to carry out the requirements of the PST, which causes the PSC to not be able to perform all of its responsibilities required in the treaty and its Chinook and coho annexes.

The PST was implemented in 1985 through the cooperative efforts of tribal, State, U.S. and Canadian Governments, and sport and commercial fishing interests. The PSC was created by the United States and Canada to implement the treaty, which was most recently updated in 2008. The PSC establishes fishery regimes, develops management recommendations, assesses each country's performance and compliance with the treaty, and is the forum for all entities to work towards reaching an agreement on mutual fisheries issues. As co-managers of the fishery resources in western Washington, tribal participation in implementing the PST is critical to achieve the goals of the treaty to protect, share and restore salmon resources.

Adult salmon returning to most western Washington streams migrate through U.S. and Canadian waters and are harvested by fisherman from both countries. For years, there were no restrictions on the interception of returning salmon by fishermen of neighboring countries. The 2008 update of the treaty gave additional protection to weak runs of Chinook salmon returning to Puget Sound rivers. The update also provided compensation to Alaskan fishermen for lost fishing opportunities, while also funding habitat restoration in the Puget Sound region.

Provide \$15.8 million for NOAA Mitchell Act Hatchery Programs

We support the President's request of \$15.8 million for the Mitchell Act Hatchery Programs. Funding is provided for the operation of 17 fish hatcheries that release between 50 and 60 million juvenile salmon and steelhead in Oregon, Washington, and Idaho. This program has historically provided fish production for tribal treaty fisheries, and recreational and commercial fisheries in the Columbia River and the ocean. It is especially important to us in that they provide significant fish production for harvest opportunities for tribal treaty fisheries along the Washington coast. Providing adequate funding to maintain the current production levels from the Mitchell Act hatcheries on the Columbia River is important as this production not only supports coastal salmon fisheries but dampens the impact of Canadian fisheries under the terms of the PST Chinook Annex on Puget Sound and coastal stocks.

Overall production from these hatcheries has been reduced from more than 100 million to fewer than 60 million fish. This hatchery production is intended to miti-

²*Hoh v. Baldrige*—A Federal court ruling that required fisheries management on a river-by-river basis.

gate for the lost production caused by the hydropower dam system on the Columbia River. Substantial changes have been made, and will continue to be required of the Mitchell Act Program, due to the application of the ESA throughout the Columbia Basin. Adequate funding will also allow these facilities to be retrofitted to meet current ESA standards as identified through the hatchery reform process.

Provide \$20.0 million for NOAA Regional Ocean Partnership Grants Program

We request \$20.0 million for the Regional Ocean Partnership. It appears the President's fiscal year 2015 budget didn't include a request for this program but we feel it is necessary to highlight it since it is so critical to our regional approach to coastal management. Funding for this competitive grant program has in the past been included within the National Ocean Service/Coastal Management account and supports regional ocean partnerships, including coastal and marine spatial planning. This program was developed to advance effective coastal and ocean management through regional ocean governance by improving communications, aligning priorities and enhancing resource sharing.

The Hoh, Makah, and Quileute Tribes, and the Quinault Indian Nation helped form the Intergovernmental Policy Council with the intent to strengthen management partnerships through coordination and focus of work efforts. They have pioneered cooperative partnerships with the State of Washington and the Federal Government in an effort to advance management practices in the coastal waters. Through this partnership, the entities hope to coordinate rockfish research, habitat mapping, and deep sea coral and climate change considerations. The four coastal tribes and the State also wish to engage in an ocean monitoring and research initiative to support and transition into an ecosystem-based fisheries management plan for the Washington coast. This tribal-State effort would be in collaboration with NOAA and consistent with regional priorities identified by a regional ocean planning body. Effective management of the ocean ecosystem and its associated resources requires the development of baseline information against which changes can be measured. For the tribes and State to conduct an ocean monitoring and research initiative off the Washington coast, they will need funding to support this effort. Healthy oceans are essential if we value stable climates that will sustain our economies and our lives. Tribes must be partners in the efforts to research, clean up and restore the environment in order to deal with identified problems.

CONCLUSION

We are sensitive to the budget challenges that Congress faces. However, we need your continued support in upholding the treaty obligations and fulfilling the trust responsibility of those treaties in order for tribes to be successful. We respectfully urge you to continue to support our efforts to protect and restore our great natural heritage that in turn will provide for thriving economies. Thank you.

PREPARED STATEMENT OF THE OCEAN CONSERVANCY

Thank you for this opportunity to provide Ocean Conservancy's recommendations for fiscal year 2015 funding for National Oceanic and Atmospheric Administration (NOAA). Ocean Conservancy has worked for 40 years to address ocean threats through sound, practical policies that protect our ocean and improve our lives. We support funding for NOAA at or above the President's request of \$5.5 billion, and we support balanced investments across NOAA's atmospheric and oceanic missions. We recommend the following funding levels for specific programs.

Account, Program or Activity	Fiscal year 2014 enacted	Fiscal year 2015 President's request	Fiscal year 2015 recommended level
OPERATIONS RESEARCH AND FACILITIES			
National Ocean Service:			
Coastal Science, Assessment, Response, and Restoration:			
Marine Debris	\$6 million	\$6 million	\$8 million
Arctic Spill Preparedness	—	\$1.315 million increase.	\$1.315 million increase
Coastal Management Grants:			
Regional Coastal Resilience Grants	—	\$5 million	\$10 million
National Marine Fisheries Service:			
Marine Mammals	\$49.717 million	\$47.217 million	\$49.717 million
Fisheries Research and Management Programs	\$177.833 million	\$181.833 million	\$181.833 million

Account, Program or Activity	Fiscal year 2014 enacted	Fiscal year 2015 President's request	Fiscal year 2015 recommended level
OPERATIONS RESEARCH AND FACILITIES			
Expand Annual Stock Assessments	\$69.745 million	\$72.245 million	\$75.6 million
Fisheries Statistics	\$22.361 million	\$22.361 million	\$23.9 million
Climate Regimes & Ecosystem Productivity	\$2.031 million	\$2.879 million	\$2.879 million
Distributed Biological Obs. (Arctic)	—	\$848,000 increase	\$848,000 increase
Office of Oceanic and Atmospheric Research:			
Integrated Ocean Acidification	\$6.051 million	\$14.922 million	\$15 million
Regional Climate Data and Information	\$37.312 million	\$52.312 million	\$52.312 million
NOAA Arctic Research Program	—	\$2.190 million increase.	\$2.190 million increase
Program Support:			
NOAA Wide Corporate Services & Agency Mgmt. Base.	\$113.139 million ...	\$125.139 million ...	\$125.139 million
Marine Operations & Maintenance	\$172.181 million ...	\$175.032 million ...	\$175.032 million

REGIONAL COASTAL RESILIENCE GRANTS: \$10 MILLION

The resilience of our coastal communities is a critical mission for NOAA and the National Ocean Service. But resilience means more than just storm-ready; truly resilient communities are prepared to face changing ocean conditions, from acidification to sea level rise, changing economic conditions, from recession to emerging ocean uses, as well as major catastrophes, from Superstorm Sandy to marine debris clogging waterways. Resilient communities invest up-front today to ensure they avoid unnecessary costs—economic, social, and environmental—in the future. Regional approaches are an effective and efficient way to address the full range of changing ocean and coastal conditions and risks—bringing communities, States, and Federal agencies together to share their collective knowledge and experience and move forward on shared priorities. Regional Coastal Resilience Grants from NOAA support work to advance resilience by supporting regional priorities for ocean and coastal science and activities.

Because regional grants were left unfunded for the first time in fiscal year 2014, ongoing efforts through States and partnerships (like the Regional Ocean Partnerships) have been threatened—interfering with progress to support local and regional ocean and coastal needs and priorities, or leverage the Federal Government's expertise and data collection capacity. Failure to restore the regional competitive grant funding and provide an increase to \$10 million will undermine and threaten the progress these partnerships have made. For these reasons, we request that the Regional Coastal Resilience Grants within NOAA's National Ocean Service be funded at \$10 million.

PREPARING FOR A CHANGING ARCTIC

We support the three funding increases requested by NOAA in fiscal year 2015 that make investments we need now to be prepared for economic and ecological challenges of a changing Arctic.

—*Arctic Spill Preparedness: \$1.315 million increase.*—Currently, there is no demonstrated technology, technique or infrastructure to respond effectively to an oil spill in icy Arctic waters. Funding to support improved models, increased capacity and coordination, and research is urgently needed. Along with a precautionary approach, these efforts can guide decisions about whether development activities should occur in the Arctic and, if so, when, where, and how they occur.

—*Distributed Biological Observatory (Arctic): \$848,000 increase.*—The Arctic marine ecosystem provides irreplaceable benefits, but our understanding of this ecosystem is hampered by a lack of reliable baseline data, critical science gaps, and limited documentation and application/use of traditional knowledge. Funding will provide much-needed support for collection of baseline data and analysis of ecosystem functions in Arctic marine waters so we better understand Arctic fisheries and other valuable ecosystem services. Without this better understanding our ability to make informed decisions is compromised.

—*NOAA Arctic Research Program: \$2.190 million increase.*—Temperatures in the Arctic are warming at twice the rate of the global average and seasonal sea ice is diminishing rapidly. Funding to expand and improve NOAA's Arctic Observing Network is critical to track and understand these profound changes and provide products that inform industries and decision-makers and support our ability to adapt.

MARINE DEBRIS: \$8 MILLION

Marine debris has become one of the most pervasive pollution problems facing the world's oceans, coasts and waterways. Research has demonstrated that persistent debris has serious effects on the marine environment, wildlife and the economy. Marine debris causes wildlife entanglement, ghost fishing, destruction of habitat, navigational hazards, vessel damage and pollutes coastal areas. There is also increasing concern over the threat of microplastics to the marine food web and potentially humans. NOAA's Marine Debris program supports existing monitoring and research efforts to better understand accumulation rates of debris and debris source and sink dynamics. The program catalyzes scientific research efforts to quantify the direct and indirect economic impacts caused by marine debris on coastal communities and economies that rely on them. And increasingly, NOAA's program is emphasizing research on microplastics in the ocean and their toxicological impacts on marine organisms. NOAA's Marine Debris program was originally authorized at a level of \$10 million. We support funding for this program at \$8 million, a \$2 million increase over fiscal year 2014.

MARINE MAMMALS: \$49.717 MILLION

We do not support NOAA's proposed cut of \$2.5 million dollars from the John H. Prescott Marine Mammal Rescue Assistance Grant Program. This cut would harm marine mammal stranding networks, which are the first responders for sick or dying marine mammals. Marine mammals face significant threats in the Gulf of Mexico, with the Galveston Bay Spill providing the latest example. Programs in Texas and Florida in particular would be harmed by this cut because they are not currently benefitting from BP Natural Resource Damage Assessment dollars that are temporarily filling funding gaps in northern Gulf rescue centers, but not elsewhere.

FISHERIES SCIENCE AND INFORMATION

We support funding for programs that implement the "Magnuson-Stevens Fishery Conservation and Management Act". As we review the Act for reauthorization, it is important to note that the Act is working—NOAA has made great strides towards ending overfishing and continued investments in these programs are needed.

- Expand Annual Stock Assessments: \$75 million.*—This funding line provides critically needed resources for fisheries managers to assess priority fish stocks, implement the requirement for annual catch limits (ACLs), and ensure the successful recovery of overfished populations. The survey and monitoring and stock assessment activities funded under this line give fishery managers greater confidence that their ACLs will avoid overfishing while providing optimal fishing opportunities. Because the information provided by stock assessments is so vital for sustainable management of U.S. fisheries, increased funding for stock assessments should remain among the highest priorities in fiscal year 2015.
- Marine Operations and Maintenance: \$175.032 million.*—Marine Operations and Maintenance should be funded at or above the President's Request level of \$175.032 million. Days at sea funded by this line are functionally tied to fishery stock assessments, and the two programs must be viewed together. In addition, while not currently requested in the NOAA budget, we encourage Congress to consider the needs of the NOAA fleet as well.
- Fisheries Statistics (Marine Recreational Information Program): \$23.9 million.*—Despite their often sizeable economic and biological impacts, much less data are collected from recreational saltwater fisheries than commercial fisheries due to the sheer number of participants and limited sampling of anglers' catches. The low level of data collection and lack of timely reporting of data in these fisheries is a large source of uncertainty and has become a flashpoint for controversy in regions where catch restrictions have been adopted to rebuild overfished stocks, particularly in the Southeast. By all accounts, improved sampling and timelier reporting of catch data are needed for successful management of marine recreational fisheries.
- Fisheries Research & Mgmt. Programs (elec. monitoring): at least \$181.833 million.*—We support increasing funding for electronic monitoring and reporting by at least the \$4 million requested by NOAA. This funding has been requested for nationwide efforts, but in the Gulf of Mexico alone, where managers need electronic monitoring to keep track of catch and prevent overruns in the red snapper fishery, there is significant need for additional funding. In conjunction with the charter-for-hire, seafood, environmental and regulatory communities across all five Gulf States, we recommend that NOAA direct \$2 million of in-

creased funding to create an electronic data collection program for the federally-permitted charter boat fishery in the Gulf of Mexico.

INTEGRATED OCEAN ACIDIFICATION

In recent years, scientists have raised the alarm about ocean acidification—a process whereby ocean waters’ absorption of carbon dioxide emissions alters marine acidity. These changes can have far-reaching consequences for marine life, including economically important species like shellfish. For example, the shellfish industry in the Pacific Northwest has been devastated in recent years as increasingly acidic water impacted oyster hatcheries, nearly wiping out several years-worth of oyster “seed.”

Given the magnitude of the potential impacts of ocean acidification we believe this area warrants significantly more research investment. The President’s fiscal year 2015 request of \$15 million is a good step in the right direction of the actual on-the-ground needs for Ocean Acidification research. Funding at the \$15 million level will allow NOAA to improve the understanding of ocean and coastal acidification impacts and to develop tools and adaptive strategies for vulnerable industries and stakeholders. These tools may include advanced technologies to enhance the U.S. Ocean Acidification Observing System, develop models to better understand carbonate chemistry dynamics and impacts, and provide valuable data products for coastal resource managers and other stakeholders. By increasing funding for Integrated Ocean Acidification to this level, NOAA will be able to take these concrete actions to more effectively tackle the economic, on-the-ground implications of ocean acidification and better plan for future strategies that will protect our Nation’s key ocean and coastal economic assets.

NOAA WIDE CORPORATE SERVICES & AGENCY MANAGEMENT BASE: \$125.139 MILLION

We support the administration’s request for a \$12 million increase for NOAA wide Corporate Services & Agency Management Base. As Administrator Sullivan said recently, it is rarely popular to invest in back-of-house functions, but if you do not support these critical functions, program delivery suffers. Appropriate funding for organizational hygiene ultimately allows the agency to more effectively carry out its mission, and thus results in benefits to ocean programs.

PREPARED STATEMENT OF DR. JAMES OLIVER, UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE

Dear Sirs: The President’s 2015 budget lists closure of the Center for Coastal Fisheries and Habitat Research, National Centers for Coastal Ocean Programs, National Ocean Science, National Oceanic and Atmospheric Administration (NOAA), at Beaufort North Carolina. I wish to strongly voice my opposition to this aspect of the budget, which I feel is not in our Nation’s best interests.

The Government has invested heavily in this facility: The Beaufort Laboratory facility has, over the last few years, had major upgrades of approximately \$14 million. The lab is also rich in manpower, with a total of 108 staff and contractors who would be directly affected by the proposed closure.

Scientific expertise.—The President’s same budget also includes an increase of \$4 million to another center to support ecological forecasting of harmful algal blooms (HABs), the effects of the decreasing levels of oxygen in our coastal waters, and an increase in human and animal pathogens. This is ironic in that the Beaufort Laboratory is a recognized leading facility for such studies, and has the expertise and facilities needed to address them. Their acknowledged reputation attracts support from other NOAA offices and other organizations that realize the benefits of this laboratory’s experience.

Along with numerous other ocean scientists, many of whom like myself who enjoy scientific collaborations with the Beaufort Lab, I plead for Congress to direct NOAA to restore support and funding to full operational levels in order to fully utilize the capacity of the NOAA Beaufort Laboratory.

Thank you for studying this issue for the benefit of our country’s scientific efforts.

PREPARED STATEMENT OF OMEGA PROTEIN, INC. AND DAYBROOK FISHERIES, INC.

AUGUST 8, 2014.

Dear members: This letter is submitted on behalf of the roughly 1500 men and women employed by the menhaden industry in the Gulf of Mexico and the Mid-Atlantic, many if not most of whom work and fish here in Louisiana. The two remain-

ing commercial menhaden fisheries, Omega Protein, Inc. and Daybrook Fisheries, Inc., which combined, produce an economic impact in excess of \$1 billion to these regions and manufacture products that support domestic and foreign agriculture, aquaculture, and human health and nutrition industries, among many others. To do so, our industry must depend on credible and accurate scientific and commercial information, which for over a half century has been provided by the scientists and researchers at the National Oceanic and Atmospheric Administration (NOAA) Southeast Fisheries Science Center's ("SEFSC") Beaufort, North Carolina Lab.

In his fiscal year 2015 budget, President Obama proposes to close the Beaufort Lab and consolidate its operations at other SEFSC facilities to be determined in the future. While the President does not include a separate line item in his budget for this proposal, the closing accounts for a fraction of the \$14 million projected savings from the Department of Commerce's reorganization of six science and technology programs; perhaps a million dollars per year, according to staff. We respectfully and urgently request that you oppose this proposal and continue funding the Beaufort Lab in the fiscal year 2015 budget and beyond.

The Beaufort Lab and its staff of over 100 employees support the management activities of the Gulf States and Atlantic States Marine Fisheries Commissions, primarily by conducting and leading the menhaden stock assessment (the Southeast Data Analysis and Review, or "SEDAR") for each region. It also collects, digitizes, and analyzes commercial catch data provided by the companies' captains in detailed logbook form. This information is an essential component of the joint Federal/State menhaden management system and critical for continuing science-based, sustainable management of these economically and ecologically important stocks.

As such, we are concerned that the Beaufort Lab's closure presents a serious risk of disruption and loss of menhaden expertise. The Lab currently houses personnel with nearly a century of combined experience with the Atlantic and Gulf menhaden fisheries-biologists who provide aging data for the stock assessment and who have tracked and analyzed the fisheries for decades. It is nearly a certainty that longest serving and most knowledgeable staff will not make transition to a new location. If the assessment scientists likewise choose to remain in North Carolina, the National Marine Fisheries Service ("NMFS") would essentially be faced with starting its menhaden program from the ground-up, if it chooses to continue it at all.

While the menhaden industry has received assurances that NOAA Fisheries is committed to continuing to provide support for these fisheries, we remain concerned for the future. Given that the States take the lead in managing the Gulf and Atlantic menhaden fisheries, it is not difficult to imagine NMFS deciding, as an additional cost-cutting measure, to forgo its role entirely.

It also should not be overlooked that Beaufort Lab is one of the few remaining scientific institutions NMFS has in the Mid-Atlantic region. Beaufort is the center of research on Southeast U.S. Continental Shelf Large Marine Ecosystem. It houses NMFS scientific and management personnel from SEFSC's Miami and Pascagoula Labs doing research on fisheries, marine mammals (such as on Northern right whales, whose calving areas are off the North Carolina coast), sea turtles, and habitats unique to the area. Beaufort is the only NMFS lab located in the breeding areas of loggerhead, green, and Kemp's Ridley sea turtles in the Northern Recovery Unit. In order to continue these lines of study, NMFS would essentially have to recreate the Beaufort Lab.

In short, the Beaufort Lab's closure would create a significant gap in our scientific understanding of the Gulf and Mid-Atlantic marine systems and fisheries. This action also unnecessarily jeopardizes America's largest fishery by volume, the Gulf and Atlantic menhaden fisheries. This is simply too much for such negligible potential savings. We strongly urge you to support its continued funding.

Sincerely,

BRET SCHOLTES,
President & CEO, Omega Protein, Inc.
GREGORY HOLT,
President, Daybrook Fisheries, Inc.

PREPARED STATEMENT OF THE PLANETARY SOCIETY

The Planetary Society has serious concerns for the future of NASA's Planetary Science Division as proposed in the fiscal year 2015 NASA budget request. For the 3rd year in a row, the White House has proposed cuts to the program that will ensure the decline of planetary exploration over the course of this decade. The core recommendation of the National Academy's planetary science decadal survey—the crucial balance of small, medium, and flagship missions, combined with steady re-

search and technology funding—is not supported by this request, which, at \$1.28 billion, is nearly \$220 million below the recommended \$1.5 billion per year needed to implement a program consistent with the intent of the decadal survey.

NASA's Planetary Science program has a clear direction provided by the *Visions and Voyages* planetary science decadal survey and has maintained a productive, successful, and unprecedented program of exploration throughout the past decade. The Curiosity rover is approaching the base of an 18,000-foot Martian mountain; the Cassini spacecraft has confirmed an underground ocean on Saturn's moon, Enceladus; New Horizons will fly by Pluto next year for the first time in human history. These are highly engaging, exciting, and compelling events delivered by NASA's planetary program. They inspire generation after generation of students and the public to embrace science and engineering. They dramatically demonstrate the United States' engineering and scientific prowess. But despite this, the White House has proposed cuts year after year that threaten the health of this program.

Previous actions by the Senate and House Appropriations Committees have mitigated the losses to planetary science that would have come about had the White House's original requests in fiscal year 2013 and fiscal year 2014 been enacted. But even with these partial restorations, the United States' scientific exploration of the solar system is approaching a nadir not seen since the 1980s. The number of new missions launching during the period covered by the current decadal survey has dropped by half compared to the previous decade [Figure 1]. When Cassini at Saturn and Juno at Jupiter end their missions in 2017, there will be no NASA missions exploring the outer planets for the first time since the 1970s. Decades of hard-earned capability and engineering know-how will be placed at risk just as Europe, India, Russia, and China are committing to solar system exploration.

Even if a new mission to the outer planets were selected tomorrow, the United States would still face a minimum 6-year gap. The “fade to black” predicted by respected NASA veterans Bobby Braun and Noel Hinners¹ has come to pass. The question facing NASA and the Congress is how long to make this period last.

The administration's budget proposal ensures a long period of darkness. Based on statements within the budget document, the number of new planetary science missions in development dwindles to two (Mars 2020 and the next small-class Discovery mission) by 2016, the lowest level in decades. While NASA officials have stated their intention to increase the cadence of the Discovery missions by the end of the decade, the budget makes no statement to this effect. It also suspends one of the major components of a balanced planetary program: the medium-class “New Frontiers” mission line. If this occurs, exactly zero of the competitively-selected medium-class missions recommended by the decadal survey for 2013–2022 will be implemented. This represents a notable change in policy, as all previous budgets anticipated a new New Frontiers opportunity in 2016.

The administration did take a tentative step towards a mission to explore Europa, which would help address the lack of outer planets exploration. The Planetary Society wishes to recognize the importance of this mission, and we are happy to see NASA and the White House take this step.

Europa, the moon of Jupiter with a vast liquid water ocean, is a destination long sought by the scientific community. It ranked as the most important flagship mission in the first decadal survey and the second-most important in the current decadal survey. Last year's discovery of likely water plumes erupting from Europa's south pole only served to increase the moon's scientific importance. These plumes significantly lower the cost of performing initial analysis of Europa's water, as a spacecraft could far more easily fly through and collect plume samples instead of landing and boring through a thick ice sheet.

But the White House requests a mere \$15 million to study a low-cost Europa mission concept, despite having received over \$140 million in the past 2 years to advance the Europa Clipper concept mission from the Jet Propulsion Laboratory and the Applied Physics Laboratory, which had already reduced the cost of a major scientific mission by over 50 percent from the original decadal concept. To reduce it further, as NASA is proposing, raises serious questions of the scientific return possible from such a mission. We are all for cost-savings, but we must ensure that this once-in-a-generation opportunity to explore Europa achieves the preponderance of scientific goals as defined in the decadal survey, and sufficiently moves our understanding of Europa to the point where NASA could subsequently attempt a landing on the surface.

The timing for the Europa mission, not mentioned in the fiscal year 2015 request but stated by NASA officials as “mid-2020s,” is also a concern. We support section 321 of H.R. 2687, the NASA Authorization Act of 2013, which sets key policies for

¹U.S. Planetary Science: *Fading to Black*. Space News, April 22, 2013.

planetary missions, including the goal to launch by 2021 a major Europa mission that is responsive to the decadal survey. A similar provision is now the 2014 NASA Authorization bill currently working its way through the House Science Committee.

The administration's budget deserves praise for funding continued operations for several existing planetary science missions, notably the popular Curiosity rover on Mars and the long-lived Cassini orbiter at Saturn. The next major mission to Mars appears to have a reasonable, if tight, budget profile that supports its launch in 2020. Additionally, the request provides adequate funding to maintain the Department of Energy's Plutonium-238 infrastructure and restart program, crucial for continued access to destinations where solar power is not feasible. We strongly support these decisions, and urge Congress to do so as well.

But the budget proposal does place the continued operation of two functioning planetary spacecraft at risk. Both the Opportunity rover and the Lunar Reconnaissance Orbiter are zeroed out in the base proposal. Instead, they are moved to the President's *Opportunity, Growth, and Security Initiative*. The Planetary Society believes in maximizing taxpayer value for NASA assets by continuing operations as long as missions remain scientifically valuable. We fully expect the upcoming senior review at NASA to validate the scientific returns of both missions, and strongly recommend that both continue operations whether or not the OGSi is passed into law.

The major NASA achievements in planetary exploration slated for fiscal year 2015—Curiosity at Mt. Sharp, New Horizons at Pluto, Dawn orbiting Ceres—represent what's great about the country. They are bold feats of engineering and scientific prowess. They are optimistic—each one faced immense challenges that were overcome by careful thought and planning. They engage the public with their bold feats of discovery. They are also all initiatives from the previous Presidential administration.

Spacecraft take time to design, build, and fly. We are not so much concerned for the health of the current set of missions (Opportunity and LRO are notable exceptions) so much as we are concerned for the health of the program going forward. NASA already faces the biggest gap in solar system exploration in decades, and has dropped its launch rate for this decade by half, but this can still change. Wise action by the Congress and a receptive administration can embrace planetary science for what it is: a unique and hard-earned capability that is worth a small investment—\$1.5 billion per year, less than 9 percent of NASA's total budget—to maintain a peerless program of exploration that inspires the country.

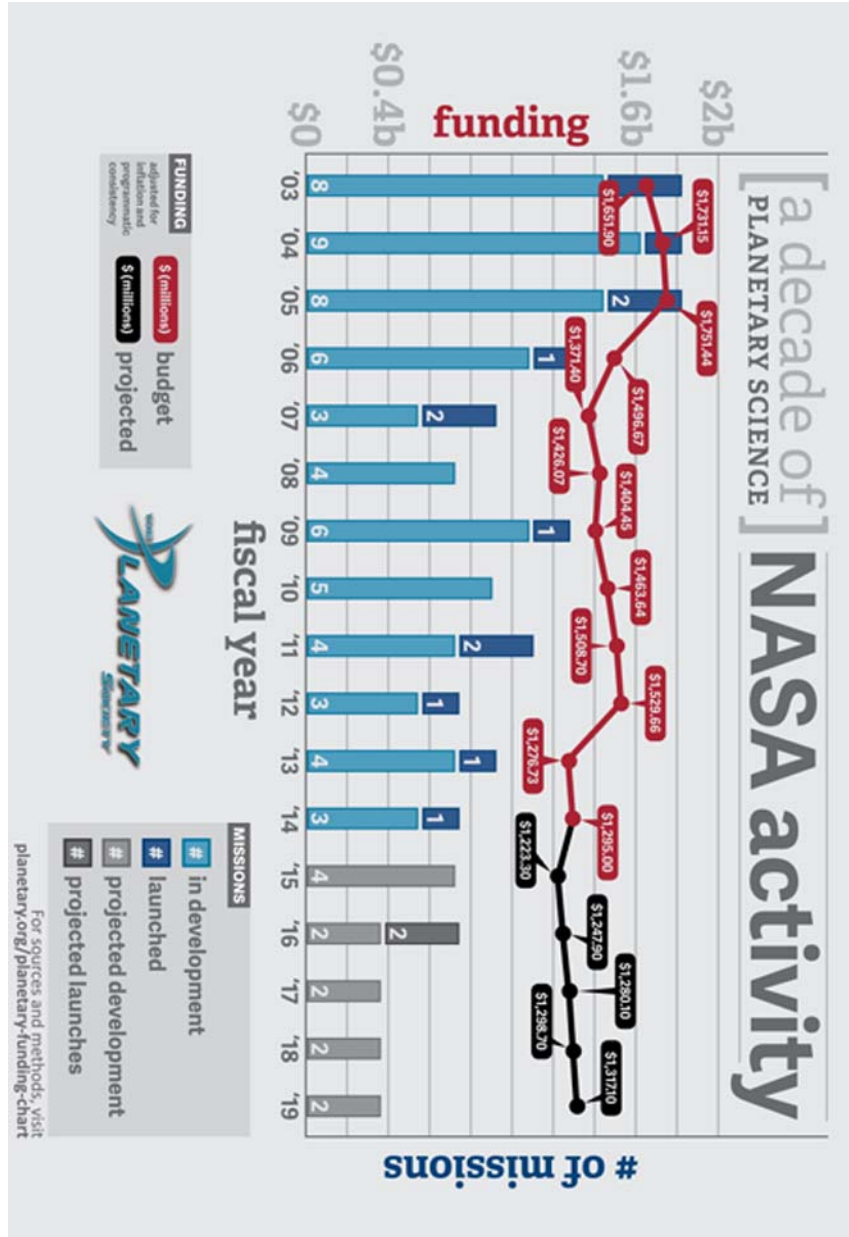


Figure 1: Funding level of NASA's Planetary Science Division from 2003–2019, adjusted for inflation and displaying the number of missions planned to be in development according to NASA Budget requests during this period. The average budget for 2003–2013 is \$1.5 billion per year. Modifications to the budget have been made to preserve programmatic consistency. Note that by the end of the decade the Division is working on only two new missions while maintaining an aging set of spacecraft and funding Pu-238 development, scientific research, NEO detection, and instruments on foreign missions. Raw data and methods are available at <http://planetary.org/planetary-funding-chart>.

Note: funding projections suggest that the Discovery 14 mission could begin development in fiscal year 2018 or fiscal year 2019, though this is unstated in the budget request and therefore not represented here.

ABOUT THE PLANETARY SOCIETY

The Planetary Society has inspired millions of people to explore other worlds and seek other life. Today, its international membership of over 40,000 individuals makes the non-governmental Planetary Society the largest space interest group in the world. Carl Sagan, Bruce Murray and Louis Friedman founded the Planetary Society in 1980. Bill Nye, a long time member of the Planetary Society's Board, serves as CEO.

PREPARED STATEMENT OF THE REGIONAL INFORMATION SHARING SYSTEMS (RISS) PROGRAM

RISS serves thousands of law enforcement and public safety agencies across the country in their effort to successfully resolve criminal investigations, apprehend and prosecute offenders, maintain security, and ensure officer safety through nationwide deconfliction. Agencies, officers, and public safety professionals turn to and rely on RISS to access intelligence systems, investigative databases, analytical support, training, and a host of other services and resources. RISS is a leader and an innovator in technology and investigative support and has enabled law enforcement to significantly improve information sharing across jurisdictions, resulting in thousands of arrests and prosecutions and millions of dollars in seizures. It is imperative that these advances continue and be built upon in order to ensure a safer Nation. Fiscal year 2015 funding for RISS is requested at \$45 million. This funding will support the continued operation of the six regional intelligence centers, the RISS Technology Support Center, and all of RISS's technology, investigative, and deconfliction services and resources.

In fiscal year 2012, RISS's funding was reduced 40 percent from \$45 million to \$27 million. RISS continued to provide the best possible service and solutions to its agencies and partners. RISS worked diligently to maintain its core services and secure infrastructure. In addition, RISS was asked by numerous agencies, including many Federal agencies, to participate in initiatives and help identify solutions. However, in some cases, agencies experienced decreases in analytical and investigative case support, training, and other investigative services. The RISS fiscal year 2013 appropriation was \$35 million, a significant increase over fiscal year 2012. Because of sequestration and administrative fees, however, RISS's net funding for fiscal year 2013 was \$29.5 million. The fiscal year 2014 appropriation included RISS at \$30 million. After administrative fees are applied, however, RISS's allocation will be \$27 million—less than fiscal year 2013. The fiscal year 2015 President's budget includes RISS at \$25 million, which at that level would exacerbate an already critical situation for the local, State, Federal, and tribal agencies RISS serves.

RISS PROVIDES SECURE INFORMATION AND INTELLIGENCE SHARING CAPABILITIES

RISS operates the RISS Secure Cloud (RISSNET)—a sensitive but unclassified (SBU) law enforcement cloud provider. RISSNET connects disparate systems, provides bidirectional sharing, and offers a federated search of connected systems. RISSNET serves as the secure infrastructure for hundreds of critical resources and investigative tools. The owners of these resources rely on RISSNET for its secure infrastructure. Currently, 84 systems are connected or pending connection to RISSNET. Without RISSNET and the hundreds of resources it supports, agencies would be greatly limited in their ability to retrieve, exchange, and use information to prevent and solve crimes.

Examples of RISS-developed resources accessible via RISSNET include the RISS Criminal Intelligence Database (RISSIntel), the RISS Officer Safety Event Deconfliction System (RISSafe), the RISS Officer Safety Web site, the RISS National Gang Program (RISSGang), the RISS Automated Trusted Information Exchange (ATIX), and the RISSLeads Investigative Website. RISS also develops secure hosted websites for partners to share information, post materials, and communicate. There are more than 30 sites housed on RISSNET, including the Assured SBU Network Interoperability Working Group, the National Interagency Fire Center, the Medicaid Fraud Control Units, the Medicaid Integrity Institute, and the Federal Law Enforcement Training Center.

The RISSIntel user interface provides for a real-time, online federated search of more than 35 RISS and partner intelligence databases, including State systems, the California gang intelligence system (CalGang), and systems connected via the Na-

tional Virtual Pointer System (NVPS). This search does not require the RISSNET user to have a separate user account with the respective partner systems. This simplified sign-on approach enables officers to save time and quickly retrieve critical information. Millions of records are available via RISSIntel and bidirectionally from connected partner systems.

The RISSGang Program consists of the RISS National Gang Intelligence Database, the RISSGang Website, and information resources. The database provides law enforcement agencies with access to gang records, including suspects, organizations, weapons, photographs, and graffiti. The website provides resources, information, and publications. RISS completed a system-to-system interface between RISSIntel/RISSGang and CalGang, enabling authorized users to initiate a federated search. RISS completed the connection to the Bureau of Alcohol, Tobacco, Firearms and Explosives' GangNet and is working to connect other gang systems.

RISS ATIX provides a secure platform for law enforcement, public safety, first responders, and the private sector involved in securing our Nation from terrorism and other disasters to share information. Community groups include local, county, State, and tribal levels of emergency management, law enforcement, and government, as well as public and private utilities, transportation, agriculture, chemical manufacturing, private security, environmental protection, banking and finance, and hospitality industries. The RISS ATIX resources include secure Web pages, secure discussion forums, a document library, and secure e-mail.

Each RISS Center maintains a secure Web site to provide users with access to RISSIntel, other RISSNET resources, and investigative systems, such as the RISS Property and Recovery Tracking System, the Cold Case Database, and the Pseudo Violator Tracking System. The number of investigative records available through these different systems exceeds 37 million. During fiscal year 2013, more than 73 million transactions occurred via RISSNET.

RISS SUPPORTS THE NATION'S PUBLIC SAFETY MISSION

RISS is a key player in Federal information sharing initiatives. RISS supports and partners with Federal agencies, such as the Law Enforcement National Data Exchange (N-DEx); the Federal Law Enforcement Training Center; the Office of the Program Manager, Information Sharing Environment (PM-ISE); the Homeland Security Information Network (HSIN); the National Criminal Intelligence Resource Center; the United States Secret Service's Targeted Violence Information Sharing System; the Medicaid Fraud Control Units; and the National Motor Vehicle Title Information System.

The N-DEx and RISS Information Sharing Partnership aims to expand the availability of case management, investigative, and intelligence data as well as critical analytical tools. Access to N-DEx will be available to authorized RISSNET users via the Law Enforcement Enterprise Portal without requiring an additional username or password. This capability enables officers to obtain needed information quickly, saves officers' time, streamlines operations, and enhances law enforcement's ability to respond to crime in their community effectively and efficiently. This effort was launched in the Rocky Mountain Information Network (RMIN), a RISS Center, and plans are under way to expand it to the other RISS Center regions throughout 2014.

RISS is the only non-Federal entity participating in the Assured SBU Interoperability Initiative under the auspices of the White House and the PM-ISE. This initiative seeks to expand federated access to resources and to provide simplified sign-on capabilities for officers to access multiple systems simultaneously. RISS is at the forefront in providing simplified, federated access. More than 18,000 users from trusted partner systems are using Federated Identity to access RISSNET resources. In addition, RISS built and hosts the NVPS Message Hub to provide access to the NVPS participant agencies and to RISS member agencies that submit records to the RISSIntel databases via RISSNET. Through these partnerships, RISS offers cost-effective and time-saving solutions while further strengthening information sharing, public safety, and officer safety.

The RISS Centers have strong partnerships with fusion centers. Almost all fusion centers have access to RISSNET. RISS intelligence analysts interact daily with staff at various fusion centers. Some analysts are collocated. RISS provides technical on-site assistance to fusion centers to integrate RISS services and resources into their daily operations and coordinates the delivery of RISS services with fusion center personnel. During fiscal year 2013, RISS initiated the Northeast Fusion Center Intelligence Project, which will connect 17 existing fusion centers' intelligence systems to RISSIntel via RISSNET. By leveraging RISSNET and RISSIntel, fusion centers can securely share intelligence data among themselves and other entities and ana-

lyze criminal and terrorism data across jurisdictional boundaries, while safeguarding privacy and civil liberties.

RISS is supported by the International Association of Chiefs of Police, the National Sheriffs' Association, the National Narcotic Officers' Associations' Coalition, the National Alliance of Gang Investigators Associations, and many others. RISS's partnerships have resulted in an unprecedented level of information and intelligence sharing.

RISS ENHANCES OFFICER SAFETY THROUGH DECONFLICTION

RISSafe is an essential component in helping to ensure officer safety. RISSafe stores and maintains data on planned law enforcement events—such as raids, controlled buys, and surveillances—with the goal of identifying and alerting affected agencies and officers of potential conflicts impacting law enforcement efforts. The interaction between RISSafe and RISSIntel provides comprehensive officer safety event and subject deconfliction services. RISSafe Mobile enables officers to access RISSafe from their smartphones and other mobile devices. RISSafe is accessible and monitored on a 24/7/365 basis and available at no cost to all law enforcement agencies regardless of RISS membership. It is impossible to put a monetary value on the number of officers that RISSafe has helped protect from harm or, worse, death.

Since its inception, more than 757,000 operations have been entered into RISSafe, resulting in more than 263,000 identified conflicts. Currently, 22 RISSafe Watch Centers are operational, 16 of which are operated by organizations other than RISS, such as State agencies, fusion centers, and High Intensity Drug Trafficking Areas (HIDTA). As of March 4, 2014, RISSafe and HIDTA's Case Explorer have been connected in the six RISS regions. Work is under way to expand connectivity with other deconfliction partners.

The RISS Officer Safety Website serves as a nationwide repository for issues related to officer safety, such as concealments, hidden weapons, armed and dangerous threats, officer safety videos, special reports, and training.

RISS PROVIDES CRITICAL INVESTIGATIVE AND CASE SUPPORT

RISS offers law enforcement agencies and officers comprehensive investigative services, from the beginning of an investigation to the ultimate prosecution and conviction of criminals. An officer can simultaneously query connected intelligence databases; retrieve information from specialized investigative databases and resources; use analytical products, such as crime scene diagrams, link-analysis charts, digital forensics, and audio/video services; solicit assistance from research staff to help sift through information, conduct research, and help identify the missing piece of the puzzle; borrow surveillance and investigative equipment; obtain training on new and emerging topics; and access critical publications and law enforcement-sensitive briefings. In fiscal year 2013, the RISS Centers developed 27,015 analytical products, loaned 4,062 pieces of specialized equipment, responded to 210,404 requests for research and technical assistance, and trained 46,579 individuals.

RISS is an excellent return on investment for our Nation. Over the last 10 years, officers leveraging RISS's services arrested almost 48,000 offenders and seized more than \$765.8 million in narcotics, property, and currency. Without RISS's services and resources, criminals, drugs, stolen property, and other contraband might still be on our streets. Every day, officers use RISS to help solve cases and stay safe. To view success stories from every State and other information regarding RISS, visit www.riss.net/Impact.

It would be counterproductive to require local and State RISS members to self-fund match requirements or to reduce the amount of Bureau of Justice Assistance discretionary funding. Agencies require more funding to fight the Nation's crime problem. RISS is unable to make up the decrease in funding that a match would cause, for it has no revenue source of its own. RISS has been instrumental in breaking down the communications barriers among the criminal justice community and providing seamless access to critical information, intelligence, and investigative resources. RISS is *A Proven Resource for Law Enforcement*. RISS's services and programs directly impact law enforcement's ability to successfully resolve investigations and prosecute criminals while providing the critical resources and officer safety deconfliction necessary to safeguard law enforcement officers and citizens. With the ongoing threats to our communities and Nation, more support for RISS is needed, not less. RISS is grateful to provide this testimony at your request and appreciates the support this committee continuously provides to the RISS Program.

PREPARED STATEMENT OF RESEARCH!AMERICA

Research!America, a public education and advocacy alliance committed to advancing medical and other scientific research and development, appreciates the Senate Committee on Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies' stewardship over such a critical subset of our Nation's discretionary funding priorities. As the subcommittee begins the process of prioritizing fiscal year 2015 funding, we urge you to consider the following thoughts on the National Science Foundation (NSF) which is entrusted with sustaining our Nation's sophisticated research infrastructure, partnering with the private sector to accelerate innovation, and maintaining our global leadership. For fiscal year 2015, we request that the National Science Foundation receive at least \$7.6 billion in Federal funding to allow its continued growth as a driver for basic research.

The National Science Foundation (NSF) plays a pivotal role in advancing basic and social sciences research. The funding, or lack of it, allocated to NSF will bear on our Nation's ability to compete in key export markets within the global economy, foster business development that grows and maintains jobs across the country, utilize social sciences research for more efficient Federal spending based on advanced understanding of the use of social services, devise evidence-based strategies for empowering Americans to overcome the need for such services, meet our solemn obligations to our troops, bolster national security, and ensure top-line education for scientists and medical researchers at our Nation's colleges and universities. The stakes truly are that high.

NSF AS AN INNOVATION INCUBATOR

In fiscal year 2015, we urge you to fund NSF with at least \$7.6 billion to continue the trajectory of increased basic research which is so critical to society. NSF supports research in fundamental sciences and engineering to keep the United States at the forefront of scientific discovery. The source of approximately 21 percent of all federally funded basic research, NSF funds over 300,000 scientists, engineers, educators, and basic researchers through more than 11,000 grants annually. The fruits of NSF basic research are integral to our Nation's innovation cycle. Countless innovations that Americans depend on every day, like laser technologies and Internet search functions, are products of NSF-supported research. NSF has also supported the work of more than 200 Nobel Prize winners in the past 60 years.

NSF AS A CONDUIT TO EVIDENCE-BASED, STRATEGIC USE OF GOVERNMENT DOLLARS

NSF's support of social sciences research is grossly underestimated in its value to taxpayers, the wellbeing of children and other vulnerable populations, and the prosperity of our Nation. Designing and executing social services programs without evidence-based foundations is akin to shooting in the dark, wasting resources, and comprising the mission. When you think of child welfare programs, the need for social sciences research is crystal clear. It would be tragic if programs inadvertently created disincentives for proper foster care, for example. Social sciences research enables a better understanding of international markets, boosting the ability of businesses to succeed in our globalized economy. It is a dangerous mistake to dismiss the importance of such research.

NSF AS AN EDUCATOR

In an era when a capable scientific workforce is crucial, NSF funds the education and training of the future STEM staff and leaders through various K-12, undergraduate, and graduate education programs. The only agency with a federally-mandated mission requiring incorporation of science and engineering education in all funded research, NSF helps to develop skilled researchers who not only extend scientific innovations but also educate future generations. For more than 20 years, the Advanced Technological Education program (ATE) has offered scientific educational support and opportunities to more than 54,000 undergraduate and associate degree students via almost 300 active grants. Without sufficient Federal funding, fundamental educational programs like ATE are at risk for cutbacks which will weaken the future scientific workforce of America and hinder our countries growth as a global innovator.

THE THREAT OF SEQUESTRATION'S RETURN

The Ryan-Murray Bipartisan Budget Act provided America with 2 years of partial relief from sequestration after across the board budget cuts dramatically impacted the Nation's research capability in March 2013. Unfortunately, sequestration will go back into full effect in 2016 unless Congress takes action, and it will be in effect

for 2 years longer than originally established under the 2011 Budget Control Act. The return of sequestration's budget cuts to discretionary spending, including that for NSF, poses potentially devastating setbacks to our Nation's research. Short-changing scientific innovation and basic research is not a solution to the Federal deficit or debt. For example, neglecting medical research undercuts strategies to fight chronic disease and the multipronged Federal costs that arise from it, while squandering opportunities to increase private sector and Federal revenues through new medical innovations.

Research!America appreciates the difficult task facing the subcommittee as it seeks to simultaneously confront the budget deficit, strengthen the United States, and promote the well-being of Americans. There are few Federal investments that confer as many benefits as medical research—new cures, new businesses, new jobs, new solutions to healthcare cost inflation, and new fuel to drive U.S. leadership in a global economy shaped by the ability of countries to continuously innovate. We firmly believe that investing in NSF is a means of advancing our Nation's innovative capacity in both the short- and long-term. Thank you for your leadership and consideration; we know that your task is extraordinarily difficult, and that our Nation is fortunate to have such pragmatic, committed and gifted leaders at the helm.

PREPARED STATEMENT OF RESTORE AMERICA'S ESTUARIES

Restore America's Estuaries is a nonpartisan, nonprofit organization that has been working since 1995 to restore our Nation's greatest estuaries. Our mission is to restore and protect estuaries as essential resources for the Nation. Restore America's Estuaries is a national alliance of community-based coastal conservation organizations across the Nation that protect and restore coastal and estuarine habitat. Our member organizations include: American Littoral Society, Chesapeake Bay Foundation, Coalition to Restore Coastal Louisiana, Save the Sound—a program of the Connecticut Fund for the Environment, Conservation Law Foundation, Galveston Bay Foundation, North Carolina Coastal Federation, EarthCorps, Save the Bay—San Francisco, Save the Bay—Narragansett Bay, and Tampa Bay Watch. Collectively, we have over 250,000 members nationwide.

As you craft your fiscal year 2015 Commerce, Justice, Science and Related Agencies appropriations bill, Restore America's Estuaries encourages you to provide the funding levels below within the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) for core programs which greatly support coastal community economies:

- \$24 million for Fisheries Habitat Restoration
(CJS: NOAA: ORF: NMFS: Habitat Conservation & Restoration: Fisheries Habitat Restoration)
- \$3 million for the Coastal and Estuarine Land Conservation Program (CELCP)
(CJS: NOAA: PAC: NOS: CELCP Acquisition)
- \$22.9 million for National Estuarine Research Reserve System
(CJS: NOAA: ORF: NOS: Ocean and Coastal Management and Services: National Estuarine Research Reserve System)
- \$1.7 million for National Estuarine Research Reserve Construction
(CJS: NOAA: PAC: NOS: NERRS Construction)

These non-regulatory investments strengthen and revitalize America's communities by buffering against storms, supporting commercial fisheries, preventing erosion, protecting vital infrastructure, eliminating public safety hazards, and providing new recreational opportunities.

NOAA, FISHERIES HABITAT RESTORATION—COMMUNITY-BASED RESTORATION PROGRAM

(CJS: NOAA: ORF: NMFS: Habitat Conservation & Restoration: Fisheries Habitat Restoration)

NOAA's Fisheries Habitat Restoration line provides critical funding for the Community-based Restoration Program and newly transferred Estuary Restoration Program which was transferred to NMFS in fiscal year 2014 from the National Ocean Service. The request includes a modest \$3.3 million increase above fiscal year 2014 enacted levels for the Community-based Restoration Program to allow funding of new projects in fiscal year 2015, while maintaining current funding levels for the Estuary Restoration Program.

NOAA's Community-based Restoration Program (CBRP), accomplishes on-the-ground projects to restore the Nation's coastal, marine, and migratory fish habitat. The program provides technical expertise—including engineering, construction, and

monitoring—as well as funding to regional and national partners, and directly to local communities to carry out science-based restoration projects. Federal investments in restoration are highly leveraged with local, State, and private funds to provide long-lasting benefits to communities and economies.

The community-engagement aspect of the program is critical to long-term restoration efforts because restoration projects occur over time and require long-term community support. To date, the program has been highly successful at improving the health of coastal habitats across the Nation, benefiting both the environment and the economy through partnerships involving community members in direct, hands-on service. By working collaboratively with more than 1,500 organizations, the program has restored over 97,000 acres of habitat and involved more than 290,000 volunteers, contributing more than 1 million volunteer hours.

We also request the committee include report language strongly encouraging NOAA to implement programmatic enhancements in fiscal year 2015 to ensure inclusion of a broader, ecosystem-based management philosophy and expand their selection criteria. We would strongly support the following *report language* and urge the committee to include the following:

The Committee maintains strong support for the Community-based Restoration program. The committee recognizes the importance of fish habitat restoration for threatened and endangered species. The Committee also recognizes the importance of habitat restoration activities for protecting communities, preventing species from being listed, and providing enhanced tourism and recreational opportunities. Moving forward, the committee urges NOAA to implement the following recommendations: (A) Expand criteria for project selection to include a broader ecosystem-based management philosophy and expand criteria to recreationally important species, managed commercial species, and their forage species; (B) Select diversity of project sizes based on watershed impact and prioritize proposals that include multiple projects in single watersheds, in addition to individual large projects; (C) Encourage public and direct community engagement: from training seminars to volunteer engagement; (D) Support over-arching science investments to advance monitoring, improve techniques, and advance valuation.

In the fiscal year 2014 omnibus appropriations, the Estuary Restoration Program was transferred from the National Ocean Service to the National Marine Fisheries Service under the Fisheries Habitat Restoration line without additional funding. The Estuary Restoration Act established a comprehensive interagency organization, the Estuary Habitat Restoration Council, which is comprised of five key Federal restoration agencies and leads a coordinated approach to enhance estuary habitat restoration. Under the Act, NOAA is responsible for maintaining the National Estuaries Restoration Inventory (NERI).

In November 2012, the Estuary Habitat Restoration Council approved the 2012 Estuary Habitat Restoration (EHR) Strategy and 5-year action plan. The action plan identifies outcomes and milestones to ensure that restoration efforts are coordinated, evaluated, and tracked across agencies with the goal of ensuring efforts are effective and efficient. Without modest funding, cross-agency collaboration will be disrupted, causing duplicative and potentially clashing efforts.

Restore America's Estuaries urges your continued support of the Estuary Restoration Council and NOAA's Estuary Restoration Program and asks that you provide no less than \$500,000 within requested funding for fiscal year 2015.

NOAA, COASTAL AND ESTUARINE LAND CONSERVATION PROGRAM (CELCP)

(CJS: NOAA: PAC: NOS: CELCP Acquisition)

The Coastal and Estuarine Land Conservation Program (CELCP) was created in 2002 to provide State and local governments with matching funds needed to protect the most significant coastal and estuarine areas under threat of development and not presently protected through regulatory mechanisms. CELCP is the only Federal land protection program with an explicit focus on coastal lands and natural resources.

The program is implemented cooperatively with willing sellers and matched with State and local funds, often playing a key role in uniting local, State and Federal efforts to protect an area. While our Nation's coastal protection need is far greater, Restore America's Estuaries respectfully requests \$3 million in funding for the program in fiscal year 2015 to ensure the future of this critical tool for coastal habitat conservation. This investment will allow the program to continue to address our Nation's most pressing coastal resource needs, especially in an age of increasing extreme weather and other coastal hazards.

NOAA, NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM (NERRS)

(CJS: NOAA: ORF: NOS: Ocean and Coastal Management and Services: National Estuarine Research Reserve System)/(CJS: NOAA: PAC: NOS: NERRS Construction)

The National Estuarine Research Reserve System (NERRS) is comprised of 28 protected reserves that support long term research, education, training, and stewardship. Through an effective partnership between NOAA and coastal States, the NERRS plays a critical role in sustaining resilient coasts and coastal communities.

The States have been entrusted to operate and manage NOAA's program in 22 States and Puerto Rico, where over 1.3 million acres of land and water are protected in perpetuity.

Restore America's Estuaries respectfully requests \$22.9 million for NERRS operations in fiscal year 2015. At this funding level, the 28 existing reserves will maintain level funding and provide support for the addition of the 29th reserve in Hawaii. The designation of a Hawaii NERR will fill an unrepresented bio-geographic region in the NERR system.

NERRS assists our coastal communities, industries and resource managers to enhance coastal resiliency in a changing environment. As severe weather events become more common, Federal, State, and local officials are recognizing that estuaries have the capacity to provide green resilience infrastructure. Through NERRS, NOAA can tailor science and management practices to enable local planners to use estuarine habitat as a tool for resilience and adaptation.

Through science and science-based management of more than 1.3 million acres of protected land, NERRS provides numerous benefits to communities that result in improved water quality, increased upland flood and erosion control, and improved habitat quality that support local fisheries and provide storm protection to coastal communities.

CONCLUSION

Restore America's Estuaries greatly appreciates the support this subcommittee has provided in the past for these important programs. These programs help to accomplish on-the-ground restoration work which results in major benefits:

- Jobs.*—Coastal habitat restoration projects create between 17–33 jobs per \$1 million invested. That's more than twice as many jobs as the oil and gas sector and road construction industries combined.
- More fish.*—Traditional fisheries management tools alone are inadequate. Fish need healthy and abundant habitat for sustainable commercial and recreational fisheries.
- Resiliency.*—Restoring coastal wetlands can help knock down storm waves and reduce devastating storm surges before they reach the people and property along the shore.
- Leverage.*—Community-based restoration projects leverage 3–5 times the Federal investment through private matching funds, amplifying the Federal investment and impact.

Thank you and we greatly appreciate you taking our requests into consideration as you move forward in the fiscal year 2015 appropriations process. We stand ready to work with you and your staff to ensure the health of our Nation's estuaries and coasts.

PREPARED STATEMENT OF ROFFER'S OCEAN FISHING FORECASTING SERVICE, INC.

APRIL 22, 2014.

Dear Senators: I am president of Roffer's Ocean Fishing Forecasting Service, Inc. I am writing this testimony to ask you to keep the Beaufort, North Carolina National Marine Fisheries Laboratory open.

This lab has a long history of cooperative research with the Duke University, North Carolina State University, and University of North Carolina-Chapel Hill, among many others. We have had positive experiences working with staff at this lab over many years. While being well known for working with Atlantic menhaden, sea grasses, red tide, and salt marshes they are integrated in the stock assessment process of many species from king mackerel to snappers and groupers, triggerfish and other coral reef species, shrimp, as well as, turtles and marine mammals. See <http://www.sefsc.noaa.gov/labs/beaufort/> for more details on their important work in-

cluding their work with the Chevron fishery independent survey. They work with the head boat fisheries as well.

National Oceanic and Atmospheric Administration (NOAA) had recently invested in approximately \$14 million in upgrades. It has been estimated that this lab affects \$58 million into the local economy (<http://www.newsobserver.com/2014/04/01/3750561/false-savings-in-cutting-beaufort.html>) and it seems to us that this investment should be allowed to generate intellectual profit.

These are critical times in fisheries management and we need the contributions from these scientists and staff. This important research laboratory has had a renowned history since its origin in 1899. It is the second oldest marine laboratory in the United States. It presently employs approximately numerous people, including scientists who are recognized both internationally, nationally and regionally for the excellent quality work they do to support objective ecosystem based fisheries management. They may not be seen as a high profile lab, as is the Miami Laboratory, but they are the only Federal Fisheries lab between Miami, Florida, and Sandy Hook, New Jersey. In my opinion we don't need less labs studying fish and our fisheries for improved management, we need more. Present employees at other National Marine Fisheries Service (NMFS) labs are already over subscribed and stretched thin.

It seems to me that this laboratory may be being closed more for political reasons rather than objective ones.

Bottom line: Keep this laboratory open. Perhaps assign it completely to NOAA NMFS and not NOAA National Ocean Service (NOS). Also more money should be invested in fisheries independent research, advanced procedures in stock assessment, fisheries oceanographic research, and for ocean observations.

Sincerely,

MITCHELL A. ROFFER, PH.D.,
President.

PREPARED STATEMENT OF THE SAC AND FOX NATION

Chairman Wolf and distinguished members of the subcommittee, I am George L. Thurman, Principal Chief of the Great Sac and Fox Nation. Thank you for accepting this written testimony which presents to you our tribal priorities for funding programs with the Office of Justice Services, Department of Justice.

We understand the fiscal constraints of the country but feel that there is budget inequity for tribal program funding which has been further impacted with the cuts we incurred due to the 2013 sequester. Tribes should not be unfairly targeted for reductions and rescissions and forced to bear the fiscal constraints of this country alone. A key intent of the Murray/Ryan budget deal was to soften the blow of the sequester for Indian Country but unfortunately that was not the case.

As you consider the 2015 appropriations for the Office of Justice Programs, we ask that you exempt tribes from any further sequestration.

1. Fully fund the Tribal Law and Order Act as authorized.
2. Fully fund the Violence Against Women Act.
3. Tribal Grants—Utilize the Department of Justice (DOJ) appropriations as base funding with tribes setting own priorities.
4. Tribal set-aside from all discretionary Office of Justice programs.

The Sac and Fox Nation also support the appropriations requests of the National Congress of American Indians.

ABOUT THE SAC AND FOX NATION

The Sac and Fox Nation is headquartered in Stroud, Oklahoma, and our tribal jurisdictional area covers Lincoln, Payne, and Pottawatomie Counties. Of the 4,000 enrolled tribal members, 2,600 live in Oklahoma. We are proud to pay tribute to a Sac and Fox descendent and Great Native American, Jim Thorpe. One of the most revered Olympic athletes who has ever represented the United States; Mr. Thorpe won the pentathlon and decathlon in the 1912 Olympics.

FULLY FUND TRIBAL LAW AND ORDER ACT AS AUTHORIZED

The Tribal Law and Order Act (TLOA) had three basic purposes:

1. Make Federal departments and agencies more accountable for serving Native peoples and land;
2. Provide greater freedom for Indian tribes and nations to design and run their own justice systems; and

3. Enhance cooperation among tribal, Federal and State officials in key areas such as law enforcement, training, interoperability and access to criminal justice information.

The Sac and Fox Nation operates a Juvenile Detention Center which provides services to 46 tribes in Oklahoma, Kansas and Texas, as well as the State of Oklahoma. We are anxious to advance the opportunities that TLOA can offer to further expand and increase access to our facility. However, unless TLOA is fully funded, facilities such as ours will not be able to attain the full potential and help to guide children in the system towards a successful future.

The full potential of TLOA cannot be realized or implemented without sufficient resources for tribal justice systems and ongoing coordination and consultation between tribal governments and various Federal agencies. DOJ recognizes the importance of completing the circle when it issued the "Proposed Statement of Principles", in which is referenced that a stable funding at sufficient levels for essential tribal justice functions is critical to the long-term growth of tribal institutions.

FULLY FUND VIOLENCE AGAINST WOMEN ACT AS AUTHORIZED

We applaud the work of Indian Country and Congress to successfully get a comprehensive Violence Against Women Act reauthorized. Prior to this bill Native women were denied equal access to justice. Thank you for helping us to protect our mothers, daughters, sisters and wives from jurisdictional gaps or safe havens for criminals. But without appropriations, this is an idle victory. We urge you to fully fund at the authorized amount.

TRIBAL GRANTS—UTILIZE DOJ APPROPRIATIONS AS BASE FUNDING WITH TRIBES SETTING OWN PRIORITIES

Eliminate the competitive grant funding process and utilize Justice Department appropriations as base funding where tribes and tribal courts themselves determine their own priorities.

Competitive funding for tribal priorities is a no win situation that continues to pit tribe against tribes. One of the biggest issues with DOJ funding is that it is competitive. In order to obtain the funding—on behalf of their tribal courts—tribes must compete against each other based on DOJ's priorities and guidelines rather than identifying their own priorities to best serve their citizens at the local level.

Instead the approach should be to utilize DOJ appropriations as base funding so that tribes are encouraged to determine their priorities. It appears that DOJ understands this concept inasmuch as it posed the idea of base funding in the form of a block grant during tribal consultation on the Office of Violence Against Women (OVW). We propose that DOJ not merely propose this for OVW but consider this for appropriations across the board.

TRIBAL SET-ASIDE FROM OFFICE OF JUSTICE PROGRAMS

Create a 7 percent tribal set-aside from all discretionary Office of Justice programs funding. Ensure that they are allocated as flexible base funding. Also, provide funding above the fiscal year 2010 level for each formerly separate program area including tribal courts, jail construction, legal assistance, juvenile delinquency prevention and substance abuse prevention.

The 7 percent set-aside was cut in the passage of the fiscal year 2012 Consolidated and Further Continuing Appropriations Act. As a result tribal justice programs were cut across the board and continue to struggle to address the increasing need of these funds which were further impacted by the sequestration.

Again, thank you for this opportunity.

PREPARED STATEMENT OF ZEB SCHOBBERND, MOREHEAD CITY, NORTH CAROLINA

Dear members of the subcommittee,

I am writing to strongly urge the subcommittee to reject the proposal in the President's fiscal year 2015 budget to close the National Oceanic and Atmospheric Administration (NOAA) laboratory in Beaufort, North Carolina, and to instead fund this facility so that the crucial work being done there can continue on into the future. This laboratory is uniquely located to address key marine science issues throughout the east coast of the U.S., and its loss would represent a devastating blow to the fisheries interests in the region. The decision to try and close the Beaufort facility represents a narrow-minded approach to a temporary funding concern that is dwarfed in comparison by the potential damage done to the research con-

ducted on the marine resources in the southeast. While I am addressing the subcommittee as a private citizen concerned about this issue and not representing the interests of any Federal agency or my employer, I have been a contractor for NOAA for most of the past decade and can attest to both the quality of the research done at this facility and the harm that would be caused by its closing.

The financial reasons given by the leadership of the National Ocean Service (NOS) for closing the Beaufort facility and have been misrepresented and overblown. In their justification for closing the lab, NOS cited only the NOS employees that would be impacted, grossly underestimating the total number of workers at the site. In addition to NOS, the lab also houses National Marine Fisheries Service (NMFS) and National Estuarine Research Reserve System (NERRS) programs; between the three groups there are 108 Federal, State, and contract employees at the facility, a much larger disruption of staff than initially claimed. Additionally, NOS cited a cost of future maintenance repairs to the facility that was outdated and did not take into account recent work that has been done to upgrade the laboratory and its infrastructure. Since 2006, approximately \$14 million in repairs and upgrades have been accomplished, including the replacement of multiple buildings. The closure of this facility, after so much has been invested in its improvement in recent years, seems like a clear waste of taxpayer money, especially given that a 2014 report showed that the facility is structurally sound.

Beyond the financial considerations, however, the closure of the Beaufort lab would be a grave error because of the loss of high-quality science and scientists associated with the facility. Located at the intersection of two distinct marine environments, the NOAA laboratory in Beaufort is uniquely situated to study one of the most diverse ecosystems in the country. The lab is an international leader in studies of harmful algal blooms (HABs) and the invasion of lionfish into the waters of the Atlantic Ocean, both of which are currently having a significant impact on the fisheries resources of the United States. The NMFS programs at the lab are responsible for the assessment of the major marine fisheries stocks in the southeast, including menhaden (the largest fishery along the Atlantic coast as well as in the Gulf of Mexico) and the commercially and recreationally important snapper and grouper fisheries. NMFS in Beaufort also provides the only up-to-date information on the currently-closed red snapper fishery along the southeast coast through its SouthEast Fishery-Independent Survey. All of these programs would suffer irreparable damage were the lab to close because NOAA would be unlikely to retain the world-class scientists performing this research in the event their Federal positions were transferred to other NOAA facilities in the southeast; the NOAA lab is part of a unique conglomeration of research facilities in the Beaufort area, and the majority of employees would very likely try and remain in the area at a different institution rather than relocate to a less desirable location. Thus, NOAA (and NMFS in particular) would be forced to rebuild these programs from scratch, programs that are required to meet congressional mandates laid out in the Magnuson-Stevens Fishery Conservation and Management Act. Just as importantly for NMFS, the closure of the Beaufort facility would mean that the Fisheries Service would not have a presence along the coast between Sandy Hook, New Jersey and Miami, Florida—an extent that covers over two-thirds of the United States east coast. It is difficult for the agency to claim they are interested in conserving the marine resources of the southeast with such a large spatial gap in representation, especially compared to five NMFS research facilities in the Gulf of Mexico and another five in the northeast.

In summary, the closing of the NOAA facility in Beaufort is bad policy—it is a squandering of taxpayer funds, it is a major detriment to the science being conducted in the southeast, and it makes it more difficult for NMFS to maintain the quality of the work it is federally mandated to achieve. The laboratory in Beaufort has been operating continually since 1899 and was sited here specifically because of its advantageous position so close to so many of our Nation's valuable marine resources; Congress owes it to our country to make sure the high-quality work done here continues on for the next 115 years.

PREPARED STATEMENT OF DR. AMY M. SCHUELLER, RESEARCH FISHERY BIOLOGIST

I am writing the following letter as a private citizen on behalf of myself during off-duty hours using only personal resources. I am not speaking for the Federal Government or any of its agencies in any capacity.

I am writing to specifically discuss the proposed closure of the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory located in Beaufort, North Carolina. The lab is part of the Department of Commerce, National Oceanic and Atmospheric Administration and houses employees of the National Marine

Fisheries Service (NMFS), National Ocean Service (NOS), and National Estuarine Research Reserve (NERR).

I urge the proposed closure of NOAA's Beaufort Laboratory be removed from the NOS budget. Currently, the lab houses 108 employees from NMFS, NOS, and NERR. The costs associated with upkeep and maintenance of the lab were inaccurate and outdated in the NOAA explanation of budgetary items. There were mistakes in the number of employees at the facility and incorrect calculations used to detail the budget item. In the past several years, several activities have been completed to keep the facility in good working condition including the replacement of the administration building and maintenance building, replacement of the bridge to the facility, seawall repair, improvements to the air conditioning, and other improvements, which totaled approximately \$14 million. Finally, an updated engineering report (2014) documents that the facility is NOT structurally unsound.

Closing the Beaufort Lab would be a tragedy. The Beaufort Lab is a stalwart of fisheries and oceanic science that has produced many well known scientists. The Beaufort Lab has a good reputation for advancing science in population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; pathogens; and snapper and grouper species. NOAA has repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for the outstanding quality of scientific work completed. Several of the area fisheries labs have located in Beaufort due to the NOAA lab including Duke Marine Lab, North Carolina Division of Marine Fisheries, CMAST, and the Institute of Marine Science. The NOAA Beaufort Laboratory is the center of productive fisheries science informing fisheries management for the Atlantic and Gulf coasts and is currently the only NMFS lab between Sandy Hook, New Jersey, and Miami, Florida.

Specific items of note from each line office include:

NMFS

Stock Assessment Science

—The NOAA Beaufort Laboratory provides the stock assessment science that determines how many fish can be caught in the southeast United States.

The stock assessment science of the NOAA Beaufort Laboratory focuses on marine fish populations that are ecologically and economically vital to the region and Nation, including snapper-grouper and pelagic species managed by the South Atlantic Fishery Management Council, Atlantic menhaden managed by the Atlantic States Marine Fisheries Commission, and Gulf menhaden managed by the Gulf States Marine Fisheries Commission. Commercial landings from the South Atlantic have been valued at \$176.5 million, supporting a centuries-old cultural way of life, and salt-water recreational fishing in this region tops the Nation for its economic impact on sales and jobs (East Florida and North Carolina generate \$5.3 billion and 47,000 jobs). Atlantic menhaden support the largest fishery on the U.S. east coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico, with a combined value of \$127.7 million.

Fishery-Independent Surveys

—Fishery-independent surveys collect data on fish populations for stock assessments and research, using standardized sampling gears and methodologies.

The Southeast Fishery-Independent Survey (SEFIS), run out of the NOAA Beaufort lab, collects annual information on the abundance, distribution, sizes, and ages of economically-important reef fish species like groupers and snappers on the U.S. East Coast between North Carolina and Florida. Using fish traps and underwater video, SEFIS determines whether reef fish species are increasing or decreasing in abundance so fish stocks can be managed with much greater certainty. The SEFIS staff has developed a close working relationship with fishermen in the Carolinas due to their co location in Beaufort, North Carolina. NOAA's Beaufort Lab is ideally situated, centered in the middle of substantial commercial and recreational fishing industries and a thriving marine science community. If the SEFIS staff was forced to move out of their survey region, ties with the fishing industry and the marine science community would be effectively severed, ultimately resulting in a significant disconnect between the National Marine Fisheries Service and the communities to which they serve.

NERR

Impacts of Closure to the Reserve-Strategic Location and Facility for the Reserve:

- North Carolina Coastal Reserve and National Estuarine Research Reserve staff (7) are currently located at the NOAA Beaufort Lab, which serves as the headquarters office for the program.
- In 2002, Congress provided NOAA with “. . . \$5,000,000 for the Beaufort Laboratory for necessary repairs to existing facilities and to construct a joint laboratory, dock, and other facilities in collaboration with the Rachel Carson National Estuarine Research Reserve.” (Public Law 107–77, See S.Rept. 107–42, p. 106–108.) \$1.32 million was invested in NOAA (\$1.28 million) and State funds (\$42,046) for the construction of a joint building at the NOAA Beaufort Lab to serve the Reserve’s mission.
- The joint building was completed in 2007 and was constructed specifically with the Reserve’s education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities.
- The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve; this close proximity is essential for conducting Reserve activities efficiently to conduct mission-critical programming including educational programs, water quality and habitat monitoring and research programs, and stewardship of the site including species monitoring, debris clean-ups, feral horse management, and access point maintenance.

Reserve Activities at the NOAA Beaufort Lab, 2008–2013

Education

K–12 field trips

- 177 educational programs
- 4947 participants

Teacher workshops

- 28 teacher workshops
- 412 participants

Summer camps

- 109 camp sessions
- 921 participants

Summer public field trips

- 96 field trips
- 1123 participants

Stewardship

Volunteer service at the Rachel Carson Reserve

- 1170 volunteers
- 2873 volunteer hours

Site management

- The NOAA Beaufort Lab provides an ideal base from which to manage the Rachel Carson Reserve due to its close proximity to the Reserve site, location on calm inland waters, and boat launching facilities. Additionally, many NOAA staff conduct or have conducted research at the Rachel Carson Reserve and are able to provide professional perspectives that are valuable to Reserve research and management.

Research

Research permits

- 31 research permits issued for research conducted at the Rachel Carson Reserve

Water quality monitoring

- Water quality inventory and monitoring stations at Middle Marsh and Shackleford Banks, in partnership with the National Park Service

Coastal Training Program

Coastal Training Program workshops

- 31 workshops
- 1076 participants

NOS

NOAA’s HAB program was initiated at the Beaufort Laboratory from the work conducted in North Carolina in 1987 during the “red tide” that affected the central coast for more than 6 months. The Beaufort Lab continues to provide essential re-

search and field data that inform Ecological Forecasting of HABs in Alaska, North Carolina, Florida, Guantanamo Bay, Cuba, Bay of Fundy, Gulf of Maine, Gulf of Mexico, and the Caribbean. Additionally, Beaufort Laboratory staff were recognized for conducting award winning science in elucidating the life history of *Pfiesteria*, a HAB species that inhabits estuaries and river systems up and down the eastern seaboard. The threat of *Pfiesteria* caused economic damages of ~\$35 million a month to the seafood industry following publicity of local fish kills. Beaufort laboratory staff provided expertise and knowledge to local and State resource managers and University partners to educate the public about the real facts concerning *Pfiesteria* and the safety of their seafood. Beaufort staff have continued to provide their expertise and knowledge to the North Carolina River Keeper Alliance and North Carolina Department of Natural Resources, Division of Water Quality when fish kill events have occurred in local estuaries. This has helped to alleviate public anxiety regarding seafood safety.

In conclusion, closure of the NOAA Beaufort Laboratory would be a poor choice scientifically, economically, and would leave a large part of the east coast without the science that they deserve. The numbers used to estimate the costs of maintaining the facility in good working order were incorrectly estimated and inaccurate numbers of current employees were provided for the budget. In addition, the Federal Government has invested in this laboratory over the long-term, and to close it now would be a gross misuse of Government resources.

PREPARED STATEMENT OF SCIENTIFIC DIVING INTERNATIONAL®

Dear Chairwoman Mikulski: I am a marine scientist who has had extensive experience in marine bivalve fisheries. I write to offer my opinion regarding the proposed closing of the National Oceanic and Atmospheric Administration (NOAA) Beaufort laboratory in Beaufort, North Carolina. This laboratory has a long and storied history and a reputation for excellence within the scientific community. It is also positioned in an excellent place to conduct needed research on marine finfish and shellfish populations. As these populations come under increasing pressure from both commercial and recreational interests the work of fisheries scientists become vastly more important.

The National Marine Fisheries Service (NMFS) has an unparalleled staff of scientists that perform critical and necessary work on fish and shellfish stocks. Their work has allowed populations of many animals to recover and become stable along a number of regions of the U.S. coast. NMFS scientists have a completely unforgiving task and that is to prevent the collapse of fisheries stocks and thereby to prevent the degradation of coastal marine ecosystems. I say unforgiving because although this seems like an honorable goal it means that NMFS scientists have to say no to a lot of people, there simple are not enough fish to go around.

Electronics and the Internet have made adequate fishers out of people who would have starved in the past. I once visited the small town of Cortez in Florida and spoke with a member of one of the original Cortez fishing families. When they arrived in Cortez a fisherman could feed his family using a row boat or a small sailing skiff. The area in front of this gentleman's home he called "the kitchen" because they could reliably get a family meal from there if all else failed. This is not the case any longer nor has it been for decades, however in many areas fisheries management has prevented the complete collapse of coastal ecosystems. Despite their valiant effort fish and shellfish stocks are under constant attack from development and overzealous fishers whose only understanding of fisheries management boils down to some scientist in a white lab coat taking "our" fish.

The United States put a lot of effort and financial resources into the NMFS and NOAA in the 1960s-1980s but, like any issue, people lose interest in issues that are still relevant. Marine research, not just for exploitation of resources, is an area that has and will pay dividends to our Nation and also to the environment. It is not a time to retrench and look only to the bottom line, it is time to renew our commitment to a healthy marine environment and ecosystems that can sustain reasonable harvest. Please keep the Beaufort Lab open, we cannot afford to lose it.

Sincerely,

DAN C. MARELLI, PH.D.,
President and Diving Officer.

PREPARED STATEMENT OF THE SEA GRANT ASSOCIATION

Madam Chair and members of the subcommittee, my name is LaDon Swann and I am the director of the Alabama-Mississippi Sea Grant Consortium. I submit this testimony in my capacity as president of the Sea Grant Association (SGA). The SGA appreciates very much the steadfast support this subcommittee has provided the National Sea Grant College Program over the years. As a result, Sea Grant has been able to deliver a number of quantifiable benefits to the residents of our ocean and coastal communities, which are documented below.

To continue to achieve a high rate of return on Federal investment and to produce meaningful and quantifiable benefits to coastal residents in the future, the SGA recommends that the National Sea Grant College Program within National Oceanic and Atmospheric Administration (NOAA) be funded in fiscal year 2015 at \$80 million. The request is consistent with the guidance provided in the fiscal year 2012 conference report that said:

The Committee recognizes the important role the Sea Grant program plays in connecting coastal and Great Lakes communities with practical research and results, and encourages the growth of this program in future budget requests.

The National Sea Grant College Program addresses national priorities at the local level, by identifying citizens' needs in order to help guide State and national research agendas. Sea Grant funds the best competitive science at our Nation's colleges and universities. The scientific discovery is effectively delivered through Sea Grant's robust extension, outreach and education programs to inform public and private decisionmaking in order to enhance the practical use and conservation of coastal, marine, and Great Lakes resources while also expanding economy and maintaining a sustainable environment.

The administration's fiscal year 2015 request for the National College Sea Grant Program is a total of \$63.4 million of which \$2 million is for marine aquaculture. This represents a total reduction from last year's appropriation of \$4 million (from \$67.4 million to \$63.4 million). After reviewing the detailed NOAA budget request sent to the Congress, it is clear that important changes to the Sea Grant program proposed by the administration are obscured within the bottom line requested for the program.

The Sea Grant Association is deeply concerned with several of the proposed changes and believes they are inconsistent with NOAA's own strategic plan and reduces Sea Grant's effectiveness at delivering important research, education and extension to its State, local, and regional partners.

First, within the budget request NOAA is proposing to terminate funding within Sea Grant for all State Sea Grant Program STEM activities such as K-12 teacher training, curricula development, and education; and Sea Grant/National Marine Fisheries Service (NMFS) Graduate Fellowships. This proposal is part of the administration's fiscal year 2015 proposal to reorganize Federal funding for STEM education, where a total of 31 STEM education programs at nine key R&D mission agencies (including NOAA, National Science Foundation (NSF), and National Aeronautics and Space Administration (NASA)) will be terminated. The Sea Grant Association strongly opposes the termination of the education programs both within Sea Grant and elsewhere in NOAA.

It is important for mission agencies to help support the next generation of scientific and technical talent—much of which will be needed by these agencies in future years. Education (particularly STEM education) within the Sea Grant program is explicitly authorized in the legislation enacted by Congress to create the Sea Grant Program. The Sea Grant statute recognizes and reinforces the linkage between research, education and extension by relying on the land-grant college and university model of research and education in service to the public. We urge the subcommittee to reject these particular consolidation proposals and support the continuation of these programs within their current agencies.

Second, within the budget request for Sea Grant, the administration is proposing a \$1 million reduction (from last year's level) in research funding available for competitively awarded projects under two specific focus areas: Healthy Coastal Ecosystems; and Resilient Coastal Communities and Economies. This proposed reduction is inconsistent with NOAA's stated priorities and strategic plan. Because of Sea Grant's prior accomplishment (detailed elsewhere in this testimony) NOAA should be strengthening Sea Grant's role in coastal resiliency as a way to help make the Nation's ocean, coastal, and Great Lakes economies more productive.

Third, within the budget request for Sea Grant, the administration is proposing to reduce marine aquaculture research by \$2.5 million; down to a total of \$2 million.

This funding decrease is shortsighted and will reduce the number of external grants NOAA provides for decision support tools and technology transfer related to sustainable domestic marine aquaculture. It will also reduce base-funded sustainable seafood industry research performed for NMFS.

The SGA's proposal for fiscal year 2015 is \$80 million, which includes a specific enhancement of the Resilient Coastal Communities and Economies focus area. Funding Sea Grant at \$80 million would also allow for the restoration of funding for STEM education, healthy coastal ecosystems, and marine aquaculture at levels at least equal to fiscal year 2014 levels.

THE RETURN ON INVESTMENT TO THE NATION THROUGH SEA GRANT

The rationale behind the SGA's proposed growth for Sea Grant is related to the specific metrics developed that can be used to assess the value of this program. In fiscal year 2013, Sea Grant returned the following quantifiable benefits to the Nation in return for the Federal investment:

- \$485 million in direct economic benefits to the Nation, which represents a 7 to 1 return on the Federal investment;
- 3,400 new businesses were created or retained, and more than 15,000 jobs were created or retained due to Sea Grant efforts;
- 600 communities across the Nation have adopted more sustainable economic or environmental development practices and policies;
- Sea Grant expanded the Nation's workforce by supporting more than 900 undergraduate and more than 980 graduate students, resulting in 335 graduate or undergraduate degrees awarded; and
- Nearly \$100 million annually in additional public and private sector investments in Sea Grant supported activities are leveraged by the subcommittee's annual appropriation for the Sea Grant program.

Approximately 95 percent of the Federal funding provided to Sea Grant leaves Washington and goes primarily to State university-led programs where it is used to conduct research, carry out extension, and education programs, and deliver valuable services to States that participate in this program. In addition, Federal funding through the Sea Grant program has a significant leveraging impact with every Federal dollar invested attracting more than two additional dollars in matching funds and other public and private sector resources.

THE ROLE OF SEA GRANT IN SUPPORTING THE NATION'S COASTAL COMMUNITIES—INCREASING COASTAL RESILIENCY

In addition to the annual positive scientific and economic impacts delivered by the National Sea Grant College Program summarized above, the relationships formed in coastal communities and with local stakeholders have proved extremely beneficial and supportive in disaster response. Beginning with hurricane Katrina and including the major disasters of the *Deepwater Horizon* oil spill and most recently hurricane Sandy, the Sea Grant network has provided substantial and much needed "boots-on-the-ground" assistance to affected communities. Following each of these disasters, it was often Sea Grant extension, outreach and education programs that brought the first response to these impacted communities.

Sea Grant works with Federal and State agencies to provide critical information following natural and man-made disasters. In the wake of these events, Sea Grant programs assist affected communities and States by facilitating community planning and capacity building by working with Department of Commerce Disaster Response Teams, Federal Emergency Management Agency (FEMA) mitigation assessment teams, State resource agencies for fishery and aquaculture impacts, local governments, industry groups, as well as others in addressing coastal impacts.

Immediately following every event, Sea Grant extension professionals and scientists were there, helping communities assess impacts to coastal businesses including commercial fishing, tourism, local marinas, and aquaculture businesses. Sea Grant also helped determine the extent of changes in coastal geology, barrier islands, beach erosion, and sand dune migration. Sea Grant capabilities allows the program to provide expertise and experience in assessing other environmental impacts such as marine debris and changes to water quality and communicating the results to affected coastal communities. Sea Grant adds to its ongoing efforts of providing coastal communities with technical assistance, helping to prepare community recovery plans, long-term resilience plans, and explaining the consequences of future mitigation choices ranging from seawalls to green infrastructure. Sea Grant has expanded its role to include the development of tools and programs that address the long-term health impacts of disasters on coastal residents and help these communities to be better prepared for these disasters.

CONCLUDING THOUGHTS

America must use its coastal resources wisely to increase the economic development and resilience of our coastal communities and U.S. working waterfronts while sustaining the health and productivity of the ecosystems on which they depend.

With the SGA's fiscal year 2015 request of \$80 million for Sea Grant, the National Sea Grant College Program will be uniquely positioned to continue to make significant contributions to improve the lives and livelihoods of the Nation's coastal communities and economies. We hope the subcommittee will be able to support this request and restore funding for Sea Grant STEM and other NOAA education activities, the NMFS Fellowship program, research in the key Sea Grant focus areas, and marine aquaculture.

Thank you for the opportunity to present these views. The SGA would be happy to answer questions or provide additional information to the subcommittee.

PREPARED STATEMENT OF THE NATIONAL CONSORTIUM FOR JUSTICE INFORMATION
AND STATISTICS

INTRODUCTION

Thank you, Madam Chair and members of the subcommittee, for the opportunity to submit testimony on the Department of Justice (DOJ) funding to be provided for in the fiscal year 2015 Commerce, Justice, Science, and Related Agencies appropriations bill. In particular, SEARCH recommends that the National Criminal History Improvement Program (NCHIP) receive an appropriation of \$50 million, and the National Instant Criminal Background Check System (NICS) Act Record Improvement Program (NARIP) receive an appropriation of \$5 million.

SEARCH, The National Consortium for Justice Information and Statistics (SEARCH), is a nonprofit membership organization created by and for the States. SEARCH's Governor-appointed, dues-paying members from the States and territories have the responsibility, among other things, to oversee both NCHIP and NARIP within their States.

Over the years, States have made great strides in meeting their criminal history record improvement goals under both programs. Last year's increase in funding for these programs as reflected in the fiscal year 2014 Commerce, Justice, Science and Related Agencies appropriations was welcomed by the States who continue to use the funding to modernize, enhance and more effectively share data for critical criminal justice and public safety decisions.

With recent NCHIP and NARIP funding, for example, the Kentucky State Police (KSP) has created a firearms application database which collects and houses mental health records, judgments and citations used for supporting documentation when entering denied persons in NICS Index. Funding also allowed for an interface with the State Department of Corrections to obtain offender records and update criminal history dispositions, as well as focus on NICS Index entries. With these efforts, over 22,500 State criminal histories were reviewed, resulting in over half being entered into NICS Index, ultimately keeping guns out of the hands of persons prohibited from receiving or possessing firearms. Kentucky anticipates applying for future funding to improve upon their demonstrated success in enhancing records in these databases.

Maryland has used NCHIP and NARIP funding over the past 2 years to focus on missing disposition issues, completing thousands of incomplete records, and now over 90 percent of arrests in the State database have a final disposition. This updated information is available for critical decisions like gun sales, employment for persons working with vulnerable populations, and overall criminal justice business on the State and Federal level.

Georgia is actively using NCHIP funding to ensure synchronization of State and Federal criminal history files and to provide accurate and complete criminal history record information for both criminal justice and public safety decisionmaking.

There is still work to be done to realize a truly complete and accurate national criminal history background check system. That system not only informs a variety of critical public safety decisions, but also noncriminal justice decisions, such as those regarding applicants for employment and licensing, to volunteers who work with children and other vulnerable populations, to individuals purchasing firearms. In light of recent, tragic events due to gun violence, and the simultaneous demand for accurate, complete and timely criminal records for a range of decisions, a priority placed on NCHIP and NARIP funding is essential.

The States are eager to leverage fiscal year 2014 and new funds in fiscal year 2015 funding to engage in broad-scale initiatives and partnerships with other State

agencies to improve and enhance criminal history record information collection and sharing.

SEARCH appreciates the subcommittees' recognition that while both NCHIP and NARIP each focus on improvements to the efficiency, effectiveness, timeliness and accuracy of criminal history record and associated data for decisionmaking purposes, each program emphasizes specific and distinct goals. NARIP funding has been heavily focused on enhancing decisionmaking for firearms purchases, such as increasing the number of disqualifying mental health records available to the system. NCHIP is focused on a broader range of criminal history improvements that individual States have prioritized (improving arrest and disposition matching, increasing conviction record availability in the Federal systems, etc.). Perhaps most significantly, by current law, still less than half of the States qualify for NARIP funding to improve their contributions to NICS.¹ Thus, the majority of the States rely on NCHIP for criminal history record and repository improvements related to all criminal and non-criminal justice decisionmaking. As such, SEARCH makes two key recommendations:

1. Support NCHIP funding for improvements to State criminal history record information so that States can effectively exchange information with other States and the FBI.

The NCHIP program has been successful in helping States to improve the accuracy, reliability and completeness of their automated, criminal history record systems. It is important to note that information stored in the State's criminal history record repositories is the same information that is used for criminal justice decisionmaking (such as at arrest, filing of charges, sentencing and inmate housing) as well as for other public safety and civil decisions (such as decisions regarding firearms transfers, or for individuals applying for employment or volunteer work with vulnerable populations).

Unlike the NARIP, all States qualify for funding under NCHIP to improve their criminal history record systems. States who cannot qualify for NICS funding will be significantly hampered in their efforts to help improve the Nation's criminal history record system if they cannot access sufficient resources via NCHIP.

NCHIP's broad objective is to enhance the criminal justice capabilities of State governments by improving the accuracy, completeness and timeliness of criminal history records. These State systems support Federal records systems, including the Federal Bureau of Investigation (FBI) Interstate Identification Index (III).² Indeed, 70 percent of all III records are maintained by the States and 30 percent are maintained by the FBI.³

Indeed States have used NCHIP funding to solve a variety of information sharing problems. Virginia used the funding to provide electronic access to criminal history records on-site at gun shows, ensuring a rapid check to prevent the transfer of firearms to prohibited persons.

States have used NCHIP widely to improve the completeness and accuracy of criminal history record as well as to create links with the courts to allow automated updates and disposition reporting. In Florida, such work over the past several years resulted in updates to over 2.5 million dispositions.

The increase in funding for NCHIP in fiscal year 2014 and, hopefully, in fiscal year 2015, will reinvigorate a program that had suffered in years past from considerably reduced funding. Because State criminal history records are the primary source for the FBI III database, any constraints on the States weakens the ability of many State and Federal programs to identify threats and keep our Nation safe.

2. Continue to invest in background screening for firearms purchases.

One of the key tools in keeping firearms out of the hands of those who should be prohibited from having them is a robust National Instant Criminal Background Screening System (NICS). Given the tragedies of recent years, significant focus has been placed on our Nation's background screening system for firearms purchases.

¹NARIP has two main requirements: States must (1) establish a process where those adjudicated as "mentally defective" can seek to reinstate their right to purchase a firearm, and (2) comply with a process to estimate the number of NICS disqualifying records they maintain. Only 20 States have met requirement #1.

²The Interstate Identification Index is the national system designed to provide automated criminal history record information of Federal offenders and records of offenders submitted by all States and territories.

³Survey of State Criminal History Information Systems 2010, Bureau of Justice Statistics, U.S. Department of Justice, Office of Justice Programs (November 2011) (<https://www.ncjrs.gov/pdffiles1/bjs/grants/237253.pdf>).

Approximately 90 percent of records used to make firearms transfer determinations are records maintained and made available by the States. And, therefore, the overwhelming majority of firearms transfer denials are based on State records. Continued funding to improve the system's effectiveness for existing requirements related to background screening for firearms purchases is essential.

For example, in New York, NARIP grant funds have significantly improved the records that New York State makes available to the NICS Index. New York built and deployed the NICS Transmission System to allow New York State to efficiently transmit mental health involuntary admissions records, civil guardianships and order of protections to provide better safeguards that prevent firearms from getting into the wrong hands. The State also completed system changes to collect and report Misdemeanor Crimes of Domestic Violence (MCDV) convictions to NICS as firearm permit prohibitors so that vulnerable spouses, children and intimate partners are further protected. The State also completed analysis and significant system enhancements to improve the accuracy and completeness of disposition data made available to NICS via New York's Criminal History Reports.

Today, the accuracy, completeness and reliability of the Nation's criminal history record system is more important than ever before, for law enforcement investigations; officer safety; sentencing and other criminal justice purposes; for expungement and other reentry strategies; for homeland security and anti-terrorism purposes; for public non-criminal justice purposes, such as security clearances and employment suitability; and for research and statistical programs that provide critical guidance for justice assistance decisions and for shaping law and policy. Without an adequate level of funding for the States, the quality of criminal records available nationwide will continue to be negatively impacted.

As you can see from the examples above, for both of NICS and NCHIP, SEARCH encourages Congress to allow States to use funding at their discretion to address the specific challenges each State faces in making more records available to the national system. Funding should also encourage adherence to performance metrics and accountability measures. SEARCH supports that Congress should expect, and States should define, specific and measurable goals for which they will use the funding to demonstrate progress and impact. SEARCH also encourages Congress to fund technical assistance and technology investments for States to improve automated information sharing systems in support of NICS.

CONCLUSION

SEARCH thanks the Chairman and members of the subcommittee for their steadfast support of these programs in the face of daunting budget challenges. Given the reliance on criminal history record systems for critical decisions that keep our citizens safe from guns, predators, terrorists and other criminals, it is a worthwhile and needed investment.

We urge Congress to continue the investment in the Federal-State criminal background screening partnership that comprises NICS. NICS is a critical tool in the fight against gun violence, but funding for its improvement must envision a national scope that is inclusive of all the States. As Florida representatives noted, their successes with information sharing would not have been possible without the support of NARIP and NCHIP funding.

Meaningful NCHIP funding will more broadly improve this Nation's criminal justice information sharing backbone. And the Federal investment can be leveraged many times over by contributing to the ability of State and local criminal justice agencies to provide timely, accurate and compatible information to Federal programs such as III. As Kentucky representatives stated, none of the improvements they had made would be possible without this funding.

On behalf of SEARCH's governor's appointees, and the thousands of criminal justice officials who participate in the SEARCH network and who benefit from SEARCH's efforts, we thank you for your consideration.

PREPARED STATEMENT OF DR. KYLE SHERTZER, MOREHEAD CITY, NORTH CAROLINA

Dear Subcommittee on Commerce, Justice, Science, and Related Agencies: I am gravely concerned about the proposal in the 2015 President's budget to close the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory located in Beaufort, North Carolina. This lab is part of the National Oceanic and Atmospheric Administration; it is administered by the National Ocean Service (NOS), but also houses the National Marine Fisheries Service (NMFS) and National Estuarine Research Reserve System (NERRS). Although I am writing this letter as a private citizen, and the views expressed are not intended to represent those of any gov-

ernment agency, I am a scientist at the NOAA Beaufort Lab and therefore have firsthand knowledge regarding the value of this laboratory to the Nation, in terms of its contributions toward marine science, natural resource management, and public outreach. The proposal to close this laboratory is a short-sighted reaction to a short-term problem.

Closing the Beaufort Lab would be a tragedy. The Beaufort Lab is a stalwart of fisheries and oceanic science, with an outstanding national and international reputation for advancing science in numerous areas: population dynamics and stock assessments; Gulf and Atlantic menhaden biology, movement, and assessments; harmful algal blooms; hypoxia; sea grass; pathogens; and snapper and grouper monitoring and ecology. NOAA and the President have repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for its outstanding quality of scientific work. Furthermore, this lab is the originator and nexus of an internationally esteemed consortium of marine science institutions, including the marine laboratories of Duke University, North Carolina State University, the University of North Carolina, and the North Carolina Division of Marine Fisheries. Beaufort was chosen because it is a prime location where northern and southern marine ecological communities intersect, and as such this lab provides the only Federal access to the most diverse marine ecosystem in the United States. There is no other location where these opportunities can be accessed as easily or as cheaply. It is the only NMFS facility on the Atlantic coast between Sandy Hook, New Jersey and Miami, Florida, a stretch of over 1200 miles of coastline.

The request to close the laboratory was based on current funding allocation to NOS, but inaccurate and outdated information that overstated the costs of maintaining the facility was used in the analysis that led to this request. Currently, the lab houses 108 employees from NOS, NMFS, and NERRS. The NOS initiated the proposed closure, but the request understated the number of NOS employees and did not account at all for employees from NMFS or NERRS. In effect, this mistake excluded more than half the staff of the lab. Furthermore, the request was based on estimated costs for the lab's upkeep and maintenance that were in error. Since 2006, several activities have been completed to keep the facility in good working condition, including replacement of the administration building, replacement of the maintenance building, replacement of the chemical storage building, replacement of the bridge to the facility, repair of the seawall, and other improvements (air conditioning, electrical, storm water runoff), which totaled approximately \$14 million. After such investments, closing the lab now would represent a conspicuous waste of tax-payers' money. Finally, contrary to previous claims, an updated engineering report (2014) documents that the facility is NOT structurally unsound. Based on mistakes both in the number of staff at the facility and in the costs associated with its upkeep, the budgetary calculations used to justify the proposed closure were fundamentally flawed.

I highlight below, by line office, the critical role that the NOAA Beaufort Laboratory has played in helping NOAA achieve its Strategic Mission (1) to understand and predict changes in climate, weather, oceans, and coasts, (2) to share that knowledge and information with others, and (3) to conserve and manage coastal and marine ecosystems and resources.

NOS

While the National Ocean Service is calling for the closure of the Beaufort North Carolina laboratory, it is requesting an increase of \$4 million to another center to support Ecological Forecasting of Harmful Algal Blooms (HABs), Hypoxia, pathogens, and Species Distributions. These areas of research are the bread and butter of NOS at the Beaufort Lab. In fact, NOAA would not have the strength it currently has in forecasting HABs if it were not for the lab's seminal and award-winning work that has been ongoing from the 1980s to this day. Furthermore, the Beaufort Lab initiated the first-ever study of the invasive lionfish in the U.S. South Atlantic, and it has continued to play a pivotal role in monitoring the distribution and abundance of this invasion throughout the South Atlantic, Gulf of Mexico, and Caribbean, providing information that has been critical for mitigation and management strategies. It is ironic and perplexing that the fiscal year 2015 President's budget requests increased research funding for coastal ocean issues, including harmful algal blooms, hypoxia, and coastal ecosystem management while at the same time proposing to close an existing facility that already has both well-established expertise and facilities required to address many of those very same issues.

NMFS

The Beaufort Laboratory provides the stock assessment science that allows NOAA to fulfill its obligation toward the Magnuson-Stevens Fishery Conservation and Management Act, as mandated by Congress. The stock assessment science of the NOAA Beaufort Laboratory focuses on marine fish populations that are ecologically and economically vital to the region and Nation, including snapper-grouper and pelagic species managed by the South Atlantic Fishery Management Council, Atlantic menhaden managed by the Atlantic States Marine Fisheries Commission, and Gulf menhaden managed by the Gulf States Marine Fisheries Commission. Atlantic menhaden support the largest fishery on the U.S. Atlantic coast, and Gulf menhaden support the largest fishery in the Gulf of Mexico. To enable robust stock assessments, sampling of the Atlantic and Gulf menhaden fisheries has been conducted by the Beaufort Lab for decades, and monitoring of snapper-grouper species has been accomplished by the lab's Southeast Fishery-Independent Survey. Removing this sampling and monitoring from the Beaufort Lab would not only result in a significant disconnect between NOAA and the communities that it serves, but would also degrade the quality of stock assessments at a time when Congress is rightly calling for improvements.

NERRS

NERRS is partnered with the North Carolina Coastal Reserve, with program headquarters at the NOAA Beaufort Lab. This program supports long-term research, water-quality monitoring, education, and coastal stewardship. In 2002, Congress provided NOAA with “. . . \$5,000,000 for the Beaufort Laboratory for necessary repairs to existing facilities and to construct a joint laboratory, dock, and other facilities in collaboration with the Rachel Carson National Estuarine Research Reserve.” With this funding, NOAA invested \$1.28 million and the State of North Carolina invested \$42,000 for the construction of a joint building at the NOAA Beaufort Lab to serve the Reserve's mission. The joint building was completed in 2007 and was constructed specifically with the Reserve's education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities. The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve, and this close proximity is essential for performing Reserve activities efficiently to conduct mission-critical work, including educational programs, water quality and habitat monitoring, research programs, and stewardship of the site, which involves species monitoring, debris clean-ups, feral horse management, and access point maintenance. In short, NERRS activities in education, training, and stewardship have been extensive, and they would not be feasible from any other Federal laboratory.

In conclusion, closure of the NOAA Beaufort Laboratory would be devastating scientifically and economically. It would cripple NOAA's ability to accomplish its own Strategic Mission and to meet its obligations toward such congressional mandates as the Magnuson-Stevens Fishery Conservation and Management Act. As I understand it, the only argument for closing the laboratory was financial, but that argument was based on flawed estimates of maintenance costs and an outdated engineering report, which has since been revised with opposite conclusions regarding the lab's structural integrity. To be blunt: Relative to NOAA's budget, cost savings associated with closing the lab, if any, would be trivial; however the loss to the Nation would be monumental.

PREPARED STATEMENT OF THE SOCIETY FOR INDUSTRIAL AND APPLIED MATHEMATICS
(SIAM)

Summary.—This written testimony is submitted on behalf of the Society for Industrial and Applied Mathematics (SIAM) to ask you to continue your support of the National Science Foundation (NSF) in fiscal year 2015 by providing NSF with \$7.5 billion. In particular, we urge you to provide strong support for key applied mathematics and computational science programs in the Division of Mathematical Sciences and the Division of Advanced Cyberinfrastructure.

Full Statement.—We are submitting this written testimony for the record to the subcommittee on Commerce, Justice, Science, and Related Agencies of the Committee on Appropriations of the U.S. Senate on behalf of the Society for Industrial and Applied Mathematics (SIAM).

SIAM has approximately 14,000 members, including applied and computational mathematicians, computer scientists, numerical analysts, engineers, statisticians,

and mathematics educators. They work in industrial and service organizations, universities, colleges, and government agencies and laboratories all over the world. In addition, SIAM has almost 500 institutional members, including colleges, universities, corporations, and research organizations.

First, we would like to emphasize how much SIAM appreciates your subcommittee's continued leadership on and recognition of the critical role of the National Science Foundation (NSF) and its support for mathematics, science, and engineering in enabling a strong U.S. economy, workforce, and society.

Today, we submit this testimony to ask you to continue your support of NSF in fiscal year 2015 and beyond. In particular, we join with the research and higher education community and request that you provide NSF with \$7.5 billion.

As we are reminded every day, the Nation's economic strength, national security, and public health and welfare are being challenged in profound and unprecedented ways. Addressing these challenges requires that we confront fundamental scientific questions. Computational and applied mathematical sciences, the scientific disciplines that occupy SIAM members, are particularly critical to addressing U.S. competitiveness and security challenges across a broad array of fields: medicine, engineering, technology, biology, chemistry, computer science, and others. SIAM recognizes the challenging fiscal situation; however, we also face an "innovation deficit," the widening gap between the actual level of Federal Government funding for research and what the investment needs to be if the U.S. is to remain the world's innovation leader. Federal investments in mathematics, science, and engineering remain crucial as they power innovation and economic growth upon which our economy and fiscal health depend.

NATIONAL SCIENCE FOUNDATION

NSF provides essential Federal support for applied mathematics and computational science, including more than 60 percent of all Federal support for basic academic research in the mathematical sciences. Of particular importance to SIAM, NSF funding supports the development of new mathematical models and computational algorithms, which are critical to making substantial advances in such fields as neuroscience, energy technologies, genomics, analysis and control of risk, and nanotechnology. In addition, new techniques developed in mathematics and computing research often have direct application in industry. Modern life as we know it—from search engines like Google to the design of modern aircraft, from financial markets to medical imaging—would not be possible without the techniques developed by mathematicians and computational scientists. NSF also supports mathematics education at all levels, ensuring that the next generation of the U.S. workforce is appropriately trained to participate in cutting-edge technological sectors and that students are attracted to careers in mathematics and computing.

Below are highlights of the main budgetary and programmatic components at NSF that support applied mathematics and computational science.

NSF DIVISION OF MATHEMATICAL SCIENCES

The NSF Division of Mathematical Sciences (DMS) in the Directorate for Mathematical and Physical Sciences (MPS) provides the core support for all mathematical sciences. DMS supports areas such as algebra, analysis, applied mathematics, combinatorics, computational mathematics, foundations, geometry, mathematical biology, number theory, probability, statistics, and topology. In addition, DMS supports national mathematical science research institutes; infrastructure, including workshops, conferences, and equipment; and postdoctoral, graduate, and undergraduate training opportunities.

The activities supported by DMS and performed by SIAM members, such as modeling, analysis, algorithms, and simulation, provide new ways of obtaining insight into the nature of complex phenomena, such as the power grid, software for military applications, the human body, and energy efficient building systems. SIAM strongly urges you to provide DMS with the highest possible funding level to reverse the damaging cuts of recent years and enable critical mathematical research and related mathematical education and workforce development programs.

In particular, investment in DMS is critical because of the foundational and cross-cutting role that mathematics and computational science play in sustaining the Nation's economic competitiveness and national security, and in making substantial advances on societal challenges such as energy, the environment, and public health. NSF, with its support of a broad range of scientific areas, plays an important role in bringing U.S. expertise together in interdisciplinary initiatives that bear on these challenges. DMS has traditionally played a central role in such cross-NSF efforts, with programs supporting the interface of mathematics with a variety of other

fields. SIAM endorses DMS participation in NSF-wide initiatives such as Cyber-enabled Materials and Manufacturing for Smart Systems (CEMMSS), to develop computational tools for transforming materials discovery, and BioMaPS, to advance research at the intersection of biology, mathematical and physical sciences, and engineering.

NSF DIVISION OF ADVANCED CYBERINFRASTRUCTURE

Work in applied mathematics and computational science is critical to enabling effective use of the rapid advances in information technology and cyberinfrastructure. Programs in the NSF Division of Advanced Cyberinfrastructure (ACI) in the Directorate for Computer and Information Science and Engineering (CISE) focus on providing research communities access to advanced computing capabilities to convert data to knowledge and increase our understanding through computational simulation and prediction.

SIAM strongly urges you to provide ACI with the highest possible level of funding to invest in the computational resources and science needed to solve complex science and engineering problems. In addition, SIAM strongly endorses ACI's role as steward for computational science across NSF, strengthening NSF support for relevant activities and driving universities to improve their research and education programs in this multidisciplinary area.

SIAM strongly supports ACI data activities, including data infrastructure, tools, and repositories, as well as the NSF-wide Big Data initiative. The explosion in data available to scientists from advances in experimental equipment, simulation techniques, and computer power is well known, and applied mathematics has an important role to play in developing the methods and tools to translate this shower of numbers into new knowledge. The programs in ACI that support work on software and applications for the next generation of supercomputers and other cyberinfrastructure systems are also very important to enable effective use of advances in hardware, to facilitate applications that tackle key scientific questions, and to better understand increasingly complex software systems.

SIAM continues to support the agency-wide initiative Cyberinfrastructure Framework for 21st Century Science and Engineering (CIF21). This program works to develop comprehensive, integrated, sustainable, and secure cyberinfrastructure to accelerate research and capabilities in computational and data-intensive science and engineering.

SUPPORTING THE PIPELINE OF MATHEMATICIANS AND SCIENTISTS

Investing in the education and development of young scientists and engineers is a critical role of NSF and a major step the Federal Government can take to ensure the future prosperity and welfare of the U.S. SIAM strongly supports significant funding for the Graduate Research Fellowship (GRF) program and the Faculty Early Career Development (CAREER) program. Strong investments in these programs will support thousands of new graduate students, which will help develop the country's next generation of scientists.

Before reaching the graduate and early career stage, young mathematicians and scientists gain critical interests and skills as undergraduates. SIAM supports efforts by NSF to improve undergraduate science, technology, engineering, and mathematics (STEM) education, and notes the key role that mathematicians play in training for these fields.

MATHEMATICS AND INTERNATIONAL SCIENCE AND ENGINEERING

Science knows no borders, and nowhere is this truer than in mathematics. Mathematical research typically advances through the close collaboration of small groups of researchers, without the need for expensive equipment and using universal mathematical notation to minimize language obstacles. In addition, mathematics, as an enabling discipline for all of science and technology, and as a foundation for science education, plays a key role in addressing many of the most challenging problems that the world faces, such as infectious disease and sustainable energy generation. International scientific cooperation is not just good science, however; it can also foster understanding and goodwill between societies more broadly. Mathematical and scientific activities can aid in promoting United States international policy goals by building relationships and trust with other countries, enhancing the global image of America, and spurring global development.

SIAM believes strongly in the Federal Government's support of international science and technology initiatives that help advance U.S. foreign policy and security, including cooperative research programs that further scientific knowledge applicable to major societal challenges, promote development of research and education capa-

bilities abroad, and introduce U.S. students to global issues and collaborative relationships.

CONCLUSION

We would like to conclude by thanking you again for your ongoing support of NSF that enables the research and education communities it supports, including thousands of SIAM members, to undertake activities that contribute to the health, security, and economic strength of the United States. NSF needs sustained annual funding to maintain our competitive edge in science and technology, and therefore we respectfully ask that you continue robust support of these critical programs in fiscal year 2015.

We appreciate the opportunity to provide testimony to the subcommittee on behalf of SIAM. SIAM looks forward to providing any additional information or assistance you may ask of us during the fiscal year 2015 appropriations process.

PREPARED STATEMENT OF THE SOCIETY FOR NEUROSCIENCE

Mr. Chairman and members of the subcommittee, my name is Carol Ann Mason, Ph.D. I am a professor of pathology and cell biology, neuroscience, and ophthalmic science at Columbia University. I study the development of visual pathways in mammalian brains, with a focus on how neurons in the eye are encoded to project to the correct side of the brain, setting up the circuit for binocular vision. This statement is in support of increased funding for the National Science Foundation (NSF) for fiscal year 2015. I am pleased to submit this testimony in my capacity as president of the Society for Neuroscience (SfN). On behalf of the nearly 40,000 members of SfN, thank you for your past support of neuroscience research at NSF.

The Society stands with others in the research community in requesting at least the President's budget request of \$7.3 billion for NSF for fiscal year 2015. Sequestration has taken an enormous toll on the research enterprise, coming on top of recent years when funding has failed to keep pace with the cost of research—let alone the scientific opportunities that are available. SfN urges Congress to reverse the current course and find ways to invest more in scientific discovery. Let's work to put research on a trajectory of sustained growth that recognizes its promise and opportunity as a tool for economic growth and, ultimately to advancing the health and well-being of Americans.

NEUROSCIENCE: AN INVESTMENT IN OUR FUTURE

Even in the face of the difficult funding situation, the last several years have been a tremendously exciting and productive time for neuroscience discoveries. Major research advances on brain development, imaging, genomics, circuits, computational neuroscience, neural engineering, and many other disciplines are leading to new tools, new knowledge, and greater understanding that were unimaginable even a few years ago.

All told, there are more than 1,000 debilitating neurological and psychiatric diseases that strike over 100 million Americans each year, costing an estimated \$760 billion a year. Advances made possible by publicly-funded research will help us maintain and restore healthy brain function. Now more than ever, it is time to fan the flames of research in order to ensure life-changing breakthroughs continue.

Resources provided to NSF will support the Nation's best and brightest researchers at the forefront of promising discoveries, graduate students at the start of their careers, and the development of advanced scientific tools and infrastructure that will be broadly available to the research community. These researchers are the ones who will be answering some of the vexing questions facing the field of neuroscience: how do the genetic, molecular, and cellular elements of the brain interact to allow for brain function and behavior? How will new tools such as brain-machine interfaces, computational models, and advanced imaging techniques deepen scientific capacity for inquiry, and contribute to better health and quality of life in the years ahead? NSF is uniquely positioned to address questions of this kind because of its emphasis on integrative and interdisciplinary research and its long history of funding research that leads to the development of life-changing neurotechnologies.

NSF funding is an investment in America. Funding for research supports quality jobs and increases economic activity. In fiscal year 2012 alone, NSF supported 39,862 senior personnel, 4,596 postdoctoral fellows, and 25,550 graduate students through 11,524 awards. Ninety percent of the NSF budget goes right back to fund extramural research in every State. Many of my colleagues can point to their first NSF grant as the launching pad for a career in science.

Finally, without robust, sustained investment, America's status as the preeminent leader in biomedical research is at risk. Other countries are investing heavily in biomedical research to take advantage of new possibilities. Even with the growing philanthropic support, private sector cannot be expected to close the gap. The lag time between discovery and profitability means that the pharmaceutical, biotechnology, and medical device industries need federally-funded basic (also known as fundamental) research to develop products and treatments. The foundation that basic research provides is at risk if federally-funded research declines.

THE BRAIN INITIATIVE

The Brain Research through Application of Innovative Neurotechnologies (BRAIN) Initiative—announced by the President last April—will enable NSF and other Federal agencies to develop tools and plans that will help accelerate fundamental discoveries in neuroscience. The scientific community is providing direction through diverse workshops being held throughout the country.

The overarching goal of the BRAIN Initiative is to integrate across scales (genes to behavior) and disciplines (engineering and life sciences) to establish predictive theories of brain structure and function, and the use of these theories to maintain and restore the healthy brain. The Initiative has a strong focus on technology and cyber tool development and the training of new generations of scientists to use the resources that emerge from the BRAIN Initiative, both of which have the potential to benefit all of neuroscience and even non-neuroscience research.

BRAIN—as with all the neuroscience research that takes place with Federal support—can only be successful if it is part of a broad effort by Congress and the administration to prioritize biomedical research so that it can reach its full potential. Such an investment will also help ensure the U.S. remains a global leader, even as other nations ramp up their investments in neuroscience research.

CROSS-DISCIPLINARY NEUROSCIENCE

NSF-funded basic research continues to be essential for discoveries that will inspire scientific and medical progress for generations. The work supported by NSF has led to the development of new technologies that have revolutionized neuroscience research. The following examples are just a few of the many basic research success stories in the science of the brain emerging now thanks to interdisciplinary research funded by a strong historic investment in NSF and other research agencies.

GREEN FLORESCENT PROTEINS

Basic research funded by NSF creates revolutionary advances in science, such as green fluorescent protein (GFP)—a transformative tool in cellular biology which allows scientists to look at the brain in unprecedented detail. The works that lead to its discovery and development for use in research received the Nobel Prize in Chemistry in 2008.

The discovery of GFP revolutionized scientists' view of the nervous system allowing them to add an incredible range and depth to images of the brain. With this protein and others like it, researchers are applying colors to brain cells to look at under the microscope. This enables them to map intricate details of brain cells, in particular, how brain cells connect to each other. Understanding these connections and their susceptibility to change help researchers better understand the healthy brain and how they might be damaged in a variety of disorders.

More than 100 years ago, scientists got their first glimpse at brain cells under a microscope after successfully staining cells with dark pigment. This and similar techniques are limited because they can't be used in living cells and they can only stain in a single color. GFP is a molecule that glows green under blue or ultraviolet light. Since its discovery, scientists have developed similar molecules that glow many different colors. Moreover, GFP can be used to visualize activity of a living cell. These light-emitting proteins have been used to illuminate the inner workings of brain cells by letting scientists track the movement of molecules inside the cells or watch how neurons react to environmental stimulation in living brains. Scientists have also used GFP to help answer questions about brain structure by using it to identify specific cells in specific areas and trace connections between two brain areas.

Recently, GFP has been adapted to help trace many brain regions at a time. In 2007, researchers found a way to make brain cells emit one of nearly 100 colors. They genetically engineered mice to carry multiple copies of a chain of three or four genes for different colored fluorescent proteins. In each cell, the combination of the colors emitted from each chain led to unique color blends. Just as a television pro-

duces a wide spectrum of colors by mixing red, green, and blue pixels, this so-called “rainbow” technique casts neighboring cells in colors from aquamarine to magenta. This technique allows scientists to map many pathways in the brain to a much larger extent than before and has allowed for a deeper understanding of brain circuits. GFP is now widely used to track everything from how nerve cells develop to how cancer spreads through the body to how HIV travels from infected to non-infected cells. In the field of neuroscience specifically, this technology will continue to evolve and will be instrumental in our efforts to understand brain structure and function.

BRAIN-MACHINE INTERFACE

The brain is in constant communication with the body in order to perform every minute motion from scratching an itch to walking. Paralysis occurs when the link between the brain and a part of the body is severed, and eliminates the control of movement and the perception of feeling in that area. Almost 2 percent of the U.S. population is affected by some sort of paralysis resulting from stroke, spinal cord, or brain injury, or other cause. Basic research funded by the NSF has provided fundamental understanding of how the brain controls movement, which in turn has led to advances in next-generation prosthetics.

In the 1990s, scientists developed an array of electrodes that allowed them to study an unprecedented number of nerve cells at once—almost 50 at a time. This research demonstrated that brain cells communicate in clusters, not in isolation. In other words, cells work together to direct complex behaviors. Since then, scientists have found ways to translate messages from clusters of neurons into a language that an artificial device can understand and convert into movement. Fundamental research in humans and animals led to the discovery that thinking of a motion activates neurons in the same way that actually making the movement would—opening the possibility for thought to operate robotic devices.

Thanks to successes in animal research, brain-controlled prosthetics are now being piloted in humans. Paralyzed humans implanted with electrodes can learn to guide a machine to perform various motor tasks such as picking up a glass of water. These advances, while small, enable substantial improvements in the quality of life for people suffering from paralysis. As deeper understanding of the language of the brain occurs in concert with advances in biomaterials, neurotechnologies, and computational power, scientists hope to eventually broaden the abilities of such devices to include thought-controlled speech and more.

UNDERSTANDING THE DEVELOPMENT OF VISION

My own area of research is the development of the circuits underlying vision. For binocular vision to function, the brain must receive information from both eyes. Nerve fibers from each retina grow to the ‘optic chiasm,’ at the midline of the bottom of the brain. Here, nerve fibers from each eye cross to the other side of the brain. Other axons, however, are repelled at the midline and project to the same side of the brain. These connections underlie binocular vision which enables animals, including humans, to calculate how far objects lie in the distance.

One area of my research focuses on this question and the molecular mechanisms that prompt some growing nerve fibers to “stop in their tracks” and reroute to the same side. These two groups of cells in the eye, each taking different routes, are endowed with distinct genes that direct their time of birth and their growth to the regions where they make their synaptic connections. Understanding their genetic “signatures” and growth helps us to learn how to encourage stem cells to be integrated into the diseased eye and injured nerve fibers to regrow in the correct circuits. We also investigate how the retinal pigment epithelium (RPE) surrounding the eye, directs retinal development. Perturbations in the RPE occur in albinism and in juvenile forms of macular degeneration, the latter leading to blindness, and our gene identification efforts are important for gene therapy at early stages of the disease. Moreover, understanding how tracts are laid down is essential for unraveling the basis of defects in fiber pathways and synapse formation in neurodevelopmental disorders such as autism. This research is made possible with support primarily from NIH, especially the National Eye Institute and with a team of innovative and collaborative scientists and trainees in my lab and in our community, and provides a foundation for future discovery and new understanding about diseases of the eye and other neurodevelopmental conditions.

THE FUTURE OF AMERICAN SCIENCE

As the subcommittee considers this year’s funding levels, please consider that significant advancements in the biomedical sciences often come from young investigators. The current funding environment is taking a toll on the energy and resilience

of these young people. America's scientific enterprise—and its global leadership—has been built over generations. NSF alone has awarded over 46,500 Graduate Research Fellowships since 1952. Many young scientists receive their first grants from NSF on their way to having careers as independently-funded investigators. Without sustained investment, we will quickly lose that leadership. The culture of entrepreneurship and curiosity-driven research could be hindered for decades.

We live at a time of extraordinary opportunity in neuroscience. A myriad of questions once impossible to consider are now within reach because of new technologies, an ever-expanding knowledge base, and a willingness to embrace many disciplines. To take advantage of the opportunities in neuroscience we need an NSF appropriation that allows for sustained, reliable growth. That, in turn, will lead to improved health for the American public and will help maintain American leadership in science worldwide. Thank you for this opportunity to testify.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC
RESEARCH

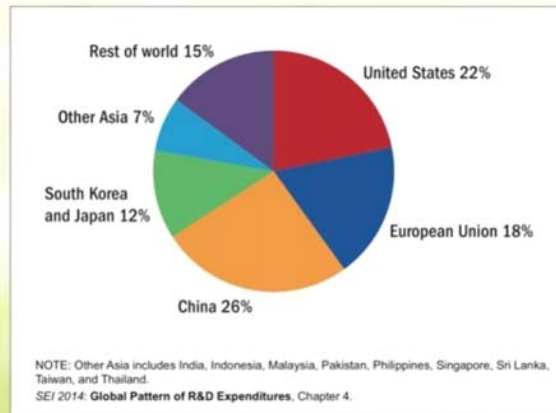
On behalf of the University Corporation for Atmospheric Research (UCAR), I am pleased to submit this testimony to the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies. UCAR is a consortium of over 100 research institutions, including 77 doctoral degree granting universities, which manages and operates the National Center for Atmospheric Research (NCAR) on behalf of the National Science Foundation (NSF).

I urge the subcommittee to provide the maximum amount of support possible for the vital research and education programs administered by the NSF, the National Aeronautics and Space Administration (NASA), and the National Oceanic and Atmospheric Administration (NOAA) in fiscal year 2015.

On February 6, the National Science Board (NSB) released its latest report entitled "Science and Engineering Indicators 2014". The biennial report makes it increasingly clear that the United States' predominance in science and technology (S&T) eroded further during the last decade, as several Asian nations—particularly China and South Korea—rapidly increased their innovation capacities. According to the NSB report, the major Asian economies taken together now perform a larger share of global research and development (R&D) than the U.S., and China performs nearly as much of the world's high-tech manufacturing as the U.S.

The NSB report makes it increasingly clear that the U.S., Japan, and Europe no longer monopolize the global R&D arena. Since 2001, the share of the world's R&D performed in the U.S. and Europe has decreased, respectively, from 37 percent to 30 percent and from 26 percent to 22 percent. In this same time period, the share of worldwide R&D performed by Asian countries grew from 25 percent to 34 percent. China led the Asian expansion, with its global share growing from just 4 percent to 15 percent during this period. Recognition on the part of national leaders that S&T innovation contributes to national competitiveness, improves living standards, and furthers social welfare has driven the rapid growth in R&D in many countries.

Contributions of selected countries/regions/economies to growth of worldwide R&D expenditures: 2001–11



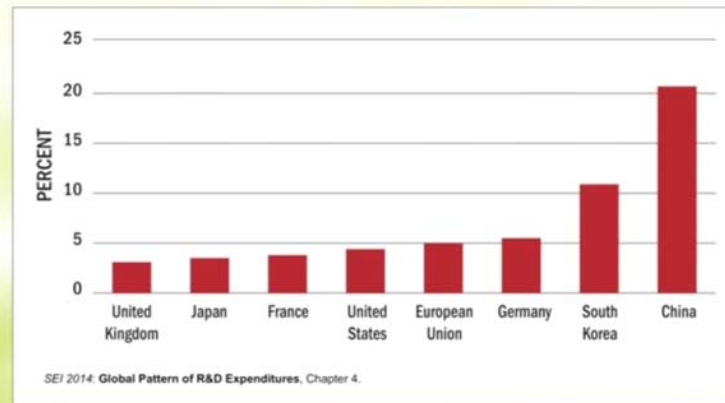
Science and Engineering Indicators Digest 2014



China and South Korea have catalyzed their domestic R&D by making significant investments in the S&T research enterprise and enhancing S&T training at universities. China tripled its number of researchers between 1995 and 2008, whereas South Korea doubled its number between 1995 and 2006. And there are indications that students from these nations may be finding more opportunities for advanced education in science and employment in their home countries.

In addition to investing in their research and teaching enterprises, these countries have focused their attention on crucial sectors of the global economy, including high-tech manufacturing and clean energy. The size of China's high-tech manufacturing industry increased nearly six-fold between 2003 and 2012, raising China's global share of high-tech manufacturing from 8 percent to 24 percent during that decade, closing in on the U.S. share of 27 percent. In addition, emerging economies now invest more in clean energy—a critical 21st century industry—than advanced economies do. In 2012, emerging economies invested nearly \$100 billion in clean energy, primarily wind and solar, with China serving as the “primary driver of investment” with \$61 billion. China's investment is more than double the \$29 billion spent in the U.S.

Average annual growth in domestic R&D expenditures of selected countries/economies: 2001–11



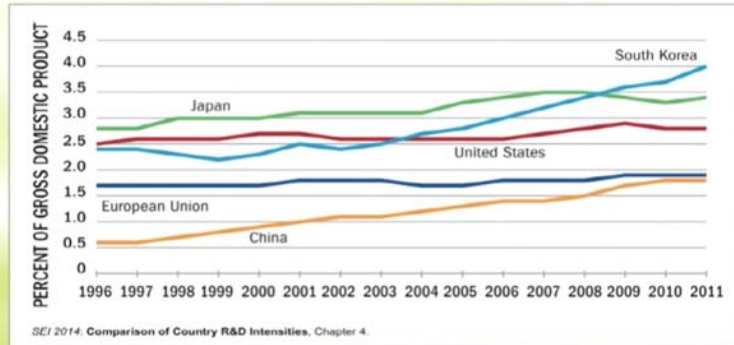
Science and Engineering Indicators Digest 2014



One of the most notable S&T trends of the last decade has been the increased innovation capacity of emerging economies as they narrowed many gaps with the West. However, the U.S. S&T enterprise remains the global leader. For example, the U.S. invests twice as much as any other single nation in R&D, despite slipping to tenth in world ranking of the percentage of its GDP it devotes to R&D. In 2011, the U.S. spent \$429 billion on R&D, compared to China's \$208 billion and Japan's \$146 billion. Among other S&T metrics, the U.S. leads in high quality research publications, patents, and income from intellectual property exports.

While the U.S. remains the world's leader in science and technology, there are numerous indicators showing how rapidly the world is changing and how other nations are challenging our predominance. As other countries focus on increasing their innovation capacities, we can ill afford to stand still. We now face a competitive environment undreamt of just a generation ago as indicated in the chart entitled *R&D Expenditures as a Share of Economic Output for Selected Countries/Economies: 1996–2011*.

R&D expenditures as a share of economic output for selected countries/economies: 1996–2011



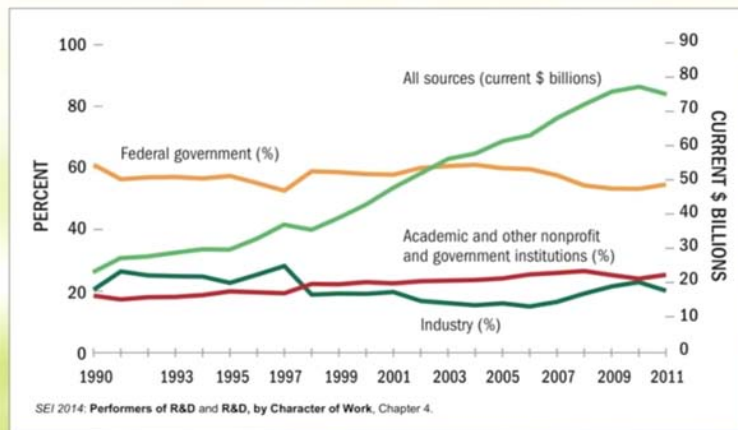
Science and Engineering Indicators Digest 2014



The Federal Government has a critical role in funding R&D. To a large extent, the Federal Government devotes resources to R&D to fund projects that, despite their potential for improving economic growth and people's well-being, would be unattractive for businesses to pursue. Businesses tend to underinvest in R&D because the returns from their investment are often smaller than the returns to the economy as a whole.

The knowledge generated from a basic research project can often be used—without compensation—by other firms within and outside their industry. To make up for this underinvestment, the Federal Government has played a major role in funding R&D. Federal support for basic research is particularly crucial because the lack of direct commercial applications from basic research projects—as well as the uncertainty of project success—can deter businesses from performing basic research even though some studies have shown that it is this form of R&D that generates the greatest economy-wide returns.

Funding sources for U.S. basic research: 1990–2011



Science and Engineering Indicators Digest 2014



Economists studying the link between science funding and economic growth have found that innovation through R&D is the primary driver of growth over the long run. Nobel prize winning MIT economist Robert Solow famously found that over half of increases in economic productivity can be attributed to new innovations and technologies. Another similar study that attempted to quantify the impact of R&D on economic growth found that increases in the level of research intensity in the U.S. and four other developed countries may have accounted for close to 50 percent of U.S. economic growth between 1950 and 1993.

The return on investments in the atmospheric sciences exemplifies how Federal R&D drives economic growth. The commercial weather industry leverages U.S. investments in weather observation, atmospheric research, and computer modeling to produce tailored products for a wide variety of clients, including the general public. There are now more than 350 U.S. commercial weather companies, and they are estimated to generate nearly \$3 billion in annual revenues. The growth rate of this industry is estimated to be about 10 percent per year.

This entire weather industry is directly dependent on the Federal scientific infrastructure, and most of its tools and technologies were developed in universities and laboratories with Federal R&D dollars. In fact, a nationwide survey indicates that the U.S. public obtains several hundred billion forecasts each year, generating \$31.5 billion in benefits compared to costs of \$5.1 billion, a 6 to 1 direct return on investment.

Even though Federal support for research—particularly basic research—is inextricably linked with long term economic growth, Federal funding for basic research has dropped since 2004. In real dollars, the Federal Government spends less on non-defense R&D than it did 10 years ago, even as Asian R&D investments have ballooned. R&D is no longer prioritized in the Federal budget as it once was. As a percent of GDP, U.S. Federal R&D has been cut by over one third from 1.3 percent to 0.8 percent since 1976. Many of these cuts have fallen on the atmospheric and geospace sciences, and universities and laboratories including NCAR have been forced in recent years into difficult layoffs of researchers and other staff. This comes at a steep cost to our future.

This subcommittee—with its oversight for the NSF, NOAA, and NASA—is singularly responsible for determining over 50 percent of the annual Federal investment in non-biomedical non-defense research—the very research portfolio so critical to long term economic growth and international competitiveness. For all of these reasons—though confronted by extreme constraints in overall spending—it is vitally important for the future health and well-being of our citizens that the Congress do

all it can to support this subcommittee's ability to fully fund its R&D portfolio as exemplified in the funding decisions you will be making regarding NSF, NOAA, and NASA. The University Corporation for Atmospheric Research and its more than 100 member institutions respectfully urge the subcommittee to maintain its strong priority commitment for research and education as it moves to develop its fiscal year 2015 appropriations recommendations.

We appreciate very much the opportunity to provide these views and stand ready to provide whatever assistance we can to the subcommittee and its members.

Thank you.

PREPARED STATEMENT OF BRIAN VANDERSEA, VICE PRESIDENT, ORAL & MAXILLOFACIAL SURGERY ASSOCIATES

Dear members of the subcommittee,

I want to express my strong opposition to President Obama's 2015 budget proposal to close the National Oceanic and Atmospheric Administration (NOAA) National Ocean Service (NOS)/National Marine Fisheries Service (NMFS) lab in Beaufort, North Carolina, and urge the subcommittee to help reinstate funding for this essential resource. This laboratory is a vital part of the local, national, and international marine science community. It has partnerships with academic institutions such as North Carolina State University, University of North Carolina-Chapel Hill, Duke University, East Carolina University and University of North Carolina-Wilmington. Without collaboration with the NOAA NOS/NMFS Beaufort Lab, each of the marine science programs at these institutions will suffer. Additionally, the laboratory's partnerships with economic development activities such as the North Carolina Marine Science and Education Partnership, North Carolina Biotechnology Center, and Marine Biotechnology Center of Innovation are important to the Morehead City/Beaufort/eastern North Carolina economies. This laboratory has served North Carolina and the Nation for 115 years by executing top-notch, award winning, marine science.

The NOAA Beaufort Laboratory is situated in a prime location, between tropical and temperate waters, and provides the only Federal access to one of the most diverse marine ecosystems in the United States. It is unthinkable that the U.S. Government would give up on a facility that is located in such a strategic position on our national coastline.

A prime example of research ongoing at the NOAA Beaufort Lab that is important to me is their ongoing work on harmful algal blooms. Having grown up in New Bern, North Carolina, the Neuse River, which is literally in my parents' back yard, experiences periodic algal blooms and fish kills. After a fish kill, the NOAA Beaufort Lab tests water samples and dead fish to determine the cause(s) for these kills. This gives local residents ease of mind regarding the health of our river ecosystems and the seafood that we purchase from local commercial fishermen. In the early 1990's there was an extensive fish kill that was supposedly caused by the algae "Pfiesteria". This caused a lot of people to stay off of and away from the local rivers and made them anxious about buying local seafood. Needless to say, this resulted in major economic damage to eastern North Carolina. The Beaufort Lab's tireless efforts led to a better understanding of the Pfiesteria lifecycle and helped ease the fears of the local communities affected by these types of fish kills. The Beaufort Lab is able to investigate problems of this nature world-wide. This gives me a sense of security in the seafood that I purchase and confidence in the water quality where my seafood originates.

In conclusion, the NOAA NOS/NMFS Laboratory in Beaufort, North Carolina is home to critical research that can only be conducted at this unique location, and my family members and I are direct benefactors of all of their hard work. The science that is conducted at the Beaufort is of the highest quality and has won national and international recognition all being done on a limited budget for quite some time.

Why would the Government want to close down a facility that produces high quality products at a minimal cost to the United States public? I urge you to please restore full funding for this important Federal laboratory.

PREPARED STATEMENT OF DR. HAROLD VANDERSEA, NEW BERN, NORTH CAROLINA

Dear Committee members,

Acting as a private citizen on my own time, I would like to submit testimony for the record.

I have recently been informed that the President's fiscal year 2015 budget proposal includes plans to close down the National Oceanic and Atmospheric Administration (NOAA) Beaufort Laboratory in Beaufort, North Carolina. This is a misguided decision. To learn why, I would like the Senate Subcommittee of Commerce, Justice, Science, and Related Agencies to consider the following testimony.

Issue presented in budget.—Long term cost of maintaining the NOAA Beaufort Laboratory (NOAA, National Ocean Service, National Centers for Coastal Ocean Science, Center for Coastal Fisheries and Habitat Research)

“To strengthen NOAA’s coastal science in the long run, NOAA proposes to reduce its physical footprint and fixed costs by closing the Beaufort, North Carolina laboratory . . .”

On this budget item, a NOAA spokesperson in Silver Spring was quoted saying: “this aging facility requires infrastructure repairs and improvements exceeding agency budget resources. . . .”

Response.—Urge proposed closure of NOAA’s Beaufort Laboratory be removed from the NOS budget.

Inaccurate, outdated information that overstated the costs of maintaining the NOAA Beaufort Laboratory was used in the analysis that led to the request to close this facility. An updated engineering report (2014) documents the condition of the facility is not structurally unsound. Additionally, there have been substantial improvements to the facility:

Facilities Upgrades:

- 2006—Administration Building replaced (with North Carolina National Estuarine Research Reserve System (NERRs))
- 2007—Bridge replaced—cost shared with Duke University
- 2008—Maintenance Building replaced
- 2009—Air conditioning/Air handler replacement and mold abatement
- 2009—Sample Storage/Chemical Storage/Haz-Mat buildings consolidated and replaced
- 2014—Seawall repair, electrical upgrade and State of North Carolina funded storm water control

Additionally, the National Ocean Service (NOS) initiating the closure request understated the NOS staff and did not account for the more than 40 National Marine Fisheries Service staff or the 6 staff members of the North Carolina National Estuarine Research Reserve (Rachel Carson) co-located at the facility. In total 108 staff and contractors will be directly affected by this closure.

Issue.—While the National Ocean Service, NOAA is calling for the closure of the Beaufort North Carolina laboratory, it is requesting an increase of \$4 million to another center to support Ecological

Forecasting of Harmful Algal Blooms (HAB), hypoxia, pathogens and Species Distributions.

Response.—NOAA should not close the facility that has a proven track record with successful and effective research conducted on harmful algal blooms (HAB) and species distributions.

NOAA’s HAB program was initiated at the Beaufort Laboratory from the work conducted in North Carolina in 1987 during the “red tide” that affected the central coast for more than 6 months. The Beaufort Lab continues to provide essential research and field data that inform Ecological Forecasting of HABs in Alaska, North Carolina, Florida, Guantanamo Bay, Cuba, Bay of Fundy, Gulf of Maine, Gulf of Mexico, and the Caribbean. Additionally, Beaufort Laboratory staff were recognized for conducting award winning science in elucidating the life history of *Pfiesteria*, a HAB species that inhabits estuaries and river systems up and down the eastern seaboard. The threat of *Pfiesteria* caused economic damages of ~\$35 million a month to the seafood industry following publicity of local fish kills. Beaufort laboratory staff provided expertise and knowledge to local and State resource managers and University partners to educate the public about the real facts concerning *Pfiesteria* and the safety of their seafood. Beaufort staff have continued to provide their expertise and knowledge to the North Carolina River Keeper Alliance and North Carolina Department of Natural Resources, Division of Water Quality when fish kill events have occurred in local estuaries. This has helped to alleviate public anxiety regarding seafood safety.

In regards to species distribution research, Beaufort Laboratory staff initiated the study of the invasive lionfish in the U.S. South Atlantic Bight, providing timely in-

formation on distribution, abundance and ecology to inform mitigation and management strategies throughout the southeast U.S., Florida Keys, Gulf of Mexico and the Caribbean.

Additional Impacts of the Beaufort Lab Closure:

- North Carolina Coastal Reserve and National Estuarine Research Reserve staff are currently located at the NOAA Beaufort Lab which serves as the headquarters office for the program.
- The joint building was completed in 2007 and was constructed specifically with the Reserve's education programs in mind: the auditorium regularly hosts coastal training program workshops and the teaching classroom hosts school groups, teacher workshops, field trips, and lectures to support K–12 Estuarine Education Program activities.
- The NOAA Beaufort Lab is a 5-minute boat ride from the Rachel Carson component of the Reserve; this close proximity is essential for conducting Reserve activities efficiently to conduct mission-critical programming including educational programs, water quality and habitat monitoring and research programs, and stewardship of the site including species monitoring, debris clean-ups, feral horse management, and access point maintenance.

The NOAA Beaufort Lab provides an ideal base from which to manage the Rachel Carson Reserve due to its close proximity to the Reserve site, location on calm inland waters, and boat launching facilities. Additionally, many NOAA staff conduct or have conducted research at the Rachel Carson Reserve and are able to provide professional perspectives that are valuable to Reserve research and management.

Request.—The Senate Subcommittee of Commerce, Justice, Science, and Related Agencies decline to endorse the recommendation to close the Beaufort Laboratory and request current and accurate information from the Beaufort Laboratory leadership on costs for maintaining the Laboratory.

Desired Outcomes:

- NOAA's Beaufort Laboratory closure proposed in the 2015 President's Budget Request should not be included in the NOS budget.
- Congress should inform NOAA that requests for closure of NOS laboratories will not be entertained in the future.
- Congress should direct NOAA to restore staffing, operational support and funding for science to full operational levels to utilize the capacity of the NOAA Beaufort Laboratory.
- NOAA should provide a report and a timeline to Congress with a strategy to address these concerns.

IN SUMMARY

Inaccurate, outdated information that overstated the costs of maintaining the NOAA Beaufort Laboratory was used in the analysis that led to the request to close this facility. The request understated the number of staff housed at this facility, and did not include NMFS or North Carolina NERRs employees. For 115 years, the NOAA Beaufort lab has had a rich history of involvement in local, national, and international marine science issues. The laboratory has produced award winning science in Fisheries and Harmful Algal Bloom research and is respected for the expertise and knowledge of the staff working there. The programs that NERRs conducts at the facility are clear evidence of the Beaufort lab's commitment to education and outreach—closing the facility would disrupt and greatly increase the hardships of running a successful marine science educational program. The lab originated in Beaufort, North Carolina because of its unique position, being at the edge of two biogeographic regions (*i.e.*, Cape Hatteras), and at the cusp of expanding tropical regions. It is critical that a NOAA lab of this strength continues in this location given the imperative to understanding fisheries management, coastal ecosystem management, climate impacts, coastal pollution, and harmful algal bloom issues in the mid and south Atlantic regions. Closing the Beaufort lab would leave a NMFS "facilities-based-gap" from Sandy Hook, New Jersey to Miami, Florida. This fact alone reveals the shortsightedness of the President's proposal. I hope the committee carefully considers this testimony and the testimonies of others that voice similar opinions against the President's proposal to close the Beaufort NOAA Laboratory.

Thank you for your consideration in this matter. The closing of this facility will impact greatly the entire eastern coast of the United States as well as all the other areas that this lab collaborates with to assist with fishery issues.

PREPARED STATEMENT OF VOR

PROTECTING THE INTERESTS OF RESIDENTS OF MEDICAID-LICENSED FACILITY HOMES FOR PERSONS WITH INTELLECTUAL DISABILITIES IN ACTIONS CONDUCTED BY THE DEPARTMENT OF JUSTICE'S CIVIL RIGHTS DIVISION THAT AFFECT THEIR CHOICE OF RESIDENCY

I. INTRODUCTION

VOR, a national advocacy organization for people with intellectual and developmental disabilities (I/DD) and their families, express gratitude to Chairwoman Barbara Mikulski and members of the Subcommittee on Commerce, Justice, Science and Related Agencies for this opportunity to submit testimony for the record in consideration of fiscal year 2015 appropriations for the Department of Justice.

VOR's members look forward to working with Senators and their staff to ensure the civil rights of our most fragile citizens with I/DD.

II. SUMMARY: LEGISLATIVE CHOICE LANGUAGE PROPOSAL

As explained in detail below, VOR asserts that legal proceedings and related actions, such as investigations, brought against States by the Department of Justice's Civil Rights Division under the Americans with Disabilities Act (ADA) have caused significant financial and emotional hardships, and sometimes harm, to individuals with developmental and intellectual disabilities and their families. The concern is widespread: the Department of Justice has filed more than 40 actions in more than 25 States. VOR views these "*Olmstead* enforcement" actions to violate the spirit and even, at times, the letter of the *Olmstead* decision, especially with regard to the requirement of individual choice [*Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999)]. To correct for this injustice, VOR urges the Senate to adopt the following choice language relating to Department of Justice appropriations:

"No funds appropriated for any Department of Justice program shall be expended to promote any law or policy that limits the choices of individuals with intellectual and developmental disabilities (or, if an individual has a legal representative, the legal representative), seeking living arrangements they believe are most suitable to their needs and wishes."

III. RATIONALE

A. *Background on Forced Deinstitutionalization*

There is a national trend towards deinstitutionalization, whereby individuals are encouraged and sometimes forced to move out of Medicaid-licensed care facilities (including Intermediate Care Facilities for Persons with Intellectual and Development Disabilities, "ICFs/IID") and into residential settings.

However, there are significant concerns among the family members and legal guardians of individuals residing in State-run and private ICFs/IID regarding the adequacy of opportunities for residents to make their views and preferences known throughout the process. They are also concerned about whether State-run and private facilities are being closed before adequate community placements are available; whether Medicaid reimbursements rates are adequate to facilitate the services necessary in such community placements for residents to lead safe and fulfilling lives; whether, due to a lack of adequate local community placements, some residents are being placed in community facilities too far from family members sometimes to meet the goals of integration into the community; the pace of transfers; and the pressure being put on legal representatives to move residents from their ICF/IID homes and other specialized facilities.

B. *The U.S. Department of Justice's Olmstead Enforcement*

As stated above, legal proceedings and related actions, such as investigations, brought against States by the Justice Department's Civil Rights Division under the ADA have caused significant financial and emotional hardships, and sometimes harm, to individuals with I/DD and their families. VOR views these "*Olmstead* enforcement" actions to violate the spirit and even, at times, the letter of the *Olmstead* decision [*Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999)].

In particular, the Supreme Court in its *Olmstead* decision establishes the right to community-based housing and care *only* when the "State's treatment professionals have determined that community placement is appropriate", "transfer is not opposed by the affected individual" and "the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities" [*Olmstead* at 587].

The Court clarified its holding as follows:

“We emphasize that nothing in the ADA [Americans with Disabilities Act] or its implementing regulations condones termination of institutional settings for persons unable to handle or benefit from community settings . . . Nor is there any Federal requirement that community-based treatment be imposed on patients who do not desire it.”527 U.S. 581, 601–02 (1999) (*see also*, Justice Kennedy’s concurring opinion, “It would be unreasonable, it would be a tragic event, then, were the Americans with Disabilities Act of 1990 (ADA) to be interpreted so that States had some incentive, for fear of litigation to drive those in need of medical care and treatment out of appropriate care and into settings with no assistance and supervision”).

It is not the Justice Department’s place to substitute its ideological view that all residents of ICFs/IID and similar facilities are better served in community placements for the Supreme Court’s specific tests for community placement, which includes the judgments of the legal representatives of behalf of incapacitated residents.

Yet, *Olmstead* investigations and actions by the Justice Department against States have been pursued with the express intent of “Community Integration for Everyone” [DOJ Olmstead Enforcement website, 2014], have rarely included consultation with families and legal guardians, and have led to settlements requiring deinstitutionalization without regard to assessments of individual needs and choices. As recognized by U.S. District Judge J. Leon Holmes in his order dismissing the Justice Department’s case against the State of Arkansas:

“Most lawsuits are brought by persons who believe their rights have been violated. Not this one. The Civil Rights Division of the Department of Justice brings this action on behalf of the United States of America against the State of Arkansas and four State officials in their official capacities alleging that practices at Conway Human Development Center [a Medicaid-licensed ICF/IID] violate the rights of its residents guaranteed by the Fourteenth Amendment, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act. All or nearly all of those residents have parents or guardians who have the power to assert the legal rights of their children or wards. Those parents and guardians, so far as the record shows, oppose the claims of the United States. *Thus, the United States is in the odd position of asserting that certain persons’ rights have been and are being violated while those persons—through their parents and guardians—disagree.*” [U.S. v. Arkansas (June 8, 2011, dismissal order) (*emphasis added*); *see also*, *Olmstead: Community Integration for Everyone—Olmstead Enforcement*, U.S. Department of Justice Civil Rights Division (website) (*emphasis added*): detailing the Division’s *Olmstead* enforcement efforts in more than 40 matters in more than 25 States in the past 5 years].

In *United States v. Virginia* (2012), families and legal guardians were conspicuously absent from the long list of stakeholders interviewed by the Justice Department prior to settlement and families spent \$125,000 to overcome Justice Department and Commonwealth opposition to secure intervention of right [*see*, *United States v. Virginia*, Memorandum Order Approving Motion to Intervene (May 9, 2012): “[T]he Petitioners have a significant, protectable interest in receiving the appropriate care of their choice and protecting their rights under the ADA. *See Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 602 (1999) (‘Nor is there any Federal requirement that community-based treatment be imposed on patients who do not desire it.’) . . . The Petitioners are all [ICF/IID] Training Center residents who wish to continue receiving institutional care in their current settings. As such, their interests are certainly affected by a lawsuit alleging deficiencies in their care and a consent decree whose stated purpose is to prohibit the unnecessary institutionalization of Virginians with ID/DD . . . The parties’ [Justice Department and Commonwealth] desire to phase out the residential Training Centers and transition all Virginians with ID/DD to community-based care is readily apparent.”].

In *United States v. Georgia* (2010), the Department did not consult with families and legal guardians before entering a settlement that requires that the closure of Georgia’s ICFs/IID and forces all residents from these homes. The Settlement does not provide families and legal guardians any decisionmaking authority except in the context of community transition. As discussed next, significant harm to affected individuals has followed transitions in Georgia and other States.

C. The Human Consequences

VOR is also deeply concerned by the many reported outcomes of abuse, neglect and death of individuals with intellectual and developmental disabilities in community settings [see e.g., Letter from U.S. Senator Chris Murphy to Daniel R. Levinson, Inspector General, U.S. Department of Health and Human Services (March 4, 2013): “I write to you today to request that you undertake an immediate investigation into the alarming number of deaths and cases of abuse of developmentally disabled individuals in group homes. In particular, I would like you to focus on the prevalence of preventable deaths at privately run group homes across this Nation and the widespread privatization of our delivery system.”; “In State Care, 1,200 Deaths and Few Answers,” *New York Times* (November 5, 2011): investigation finding that more than 1,200 deaths in State-run group homes in the past decade have been attributed to either “unnatural or unknown causes”; and Bagenstos, Samuel R., *The Past and Future of Deinstitutionalization Litigation*, 34 *Cardozo L. Rev.* 1, 15, 21 (2012), which raises serious questions about the adequacy of community-based placements; notably, Mr. Bagenstos is a former Principal Deputy Assistant Attorney General in the Obama Justice Department’s Civil Rights Division and was a key litigator in deinstitutionalization cases.]

In Georgia, where a Justice Department Settlement Agreement with the State in *U.S. v. Georgia* calls for the transition of nearly 1,000 individuals with IDD and the closure of all State-operated ICFs/IID and the transition of 9,000 individuals with mental illness from facility-based care, the Georgia Department of Behavioral Health & Developmental Disabilities’ Office of Quality Management released its Annual Quality Management Report (February 2014) finding that in 2013 there were 82 unexpected deaths, 1,200 hospitalizations, 318 incidents requiring law enforcement services, 305 individuals who were expectantly absent from a community residential or day program, and 210 alleged instances physical abuse of mentally ill and developmentally disabled individuals. Similar concerns, including some mortalities, were confirmed in a March 23, 2014 report from Elizabeth Jones, the Independent Reviewer in *U.S. v. Georgia*. In report, Jones cites an “urgent need to ensure competent and sufficient health practitioner oversight of individuals who are medically fragile and require assistance with most aspects of their daily lives.” [see, “Report: Developmentally Disabled Need Better Care,” *Georgia Health News* (April 10, 2014); see also, “Widespread Abuse, Neglect and Death in Small Settings Serving People with Intellectual Disabilities,” VOR (rev. February 2014)].

IV. CONCLUSION

Given these concerns, VOR respectfully request that language be added to appropriations legislation to require individual choice, nothing more or less, as follows:

“No funds appropriated for any Department of Justice program shall be expended to promote any law or policy that limits the choices of individuals with intellectual and developmental disabilities (or, if an individual has a legal representative, the legal representative), seeking living arrangements they believe are most suitable to their needs and wishes.”

Thank you for your consideration. For more information please contact Tamie Hopp, VOR Director of Government Relations & Advocacy at thopp@vor.net.

PREPARED STATEMENT OF JAMES R. WATERS, MOREHEAD CITY, NORTH CAROLINA

The Honorable Barbara Mikulski, Chair, and other members of the subcommittee, I am a retired Federal employee. I spent most of my professional career at the Beaufort Laboratory as an employee of National Oceanic and Atmospheric Administration (NOAA’s) National Marine Fisheries Service, and was disappointed and saddened to learn of the recent proposal to close the lab.

The Beaufort Laboratory, located in Beaufort, North Carolina, has a history of more than 100 years of research about fisheries and the marine environment. The history of publications in professional journals attests to this research. Within the past 35 years or so, the focus of research has evolved to reflect the requirements and mandates of major Federal legislation, including the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Act, and the Endangered Species Act. In particular, fishery scientists at the Beaufort Lab collect data, perform biological analyses and develop models with which to evaluate the status of important recreational and commercial species, especially for reef fishes that often are slow-growing, long-lived and vulnerable to overfishing and depletion, and for menhaden, which supports a major industrial fishery that produces fishmeal and oil. The Beaufort Laboratory works with stakeholders and fishery managers at the

South Atlantic Fishery Management Council, Gulf of Mexico Fishery Management Council, NOAA's Southeast Regional Office, Atlantic States Marine Fisheries Commission, Gulf States Marine Fisheries Commission, and various State fisheries agencies to evaluate the effects of existing and proposed methods of achieving sustainable fisheries for these species.

I urge the Senate subcommittee to question whether a closure of the Beaufort Laboratory is in the best interests of the American taxpayer. If the Beaufort Lab were closed, taxpayers would incur major expenses to relocate personnel to other Federal facilities. These facilities probably are inadequately sized to accommodate the influx of transferred employees, and as a result taxpayers would incur additional major expenses to either lease office/laboratory space or expand existing facilities. These costs could be minimized if Federal employment was terminated for some or all staff at the Beaufort Lab, but then taxpayers would lose the benefits of the data and analyses that would no longer be forthcoming with which to meet the mandates of major Federal legislation. In my opinion, taxpayers would suffer a net loss if the Beaufort Lab were closed.

Thank you for the opportunity to comment on this important issue. I hope that NOAA's Beaufort Laboratory will continue to be the source of productive research about fisheries and the marine environment for many years to come.

PREPARED STATEMENT OF DR. MICHAEL P. WEINSTEIN, SENIOR SCIENTIST, CENTER FOR NATURAL RESOURCES DEVELOPMENT AND PROTECTION, NEW JERSEY INSTITUTE OF TECHNOLOGY

The National Marine Fisheries Laboratory at Beaufort, North Carolina has played a critical role in developing science to inform policy for more than a century. It is the only Federal facility between Miami and New Jersey Atlantic that is heavily invested in applied science to comply with the "bottom up" provisions of the Magnuson Stevens Fishery Conservation and Management Act. Its scientists were among the first to recognize the linkage between coastal wetlands and seagrass meadows as primary nurseries for the early life stages of finfish and shellfish including seatrout, menhaden and many other species that contribute to the U.S.-wide \$50 billion commercial and recreational fishery. The facilities location on Pivers Island, adjacent to the Duke Marine Laboratory and near the University of North Carolina and North Carolina State University marine science laboratories is ideal for catalyzing Federal-university partnerships in cooperative marine research.

I wholeheartedly concur with North Carolina's congressional effort to keep the lab open, and similarly agree that "the NOAA Beaufort Laboratory is a prime location and provides the only Federal access to the most diverse marine ecosystem in the United States," as noted by Dr. David B. Eggleston, a professor at North Carolina State University. The Federal-university complex employs 500 staff, and hosts more than 160,000 square feet of research buildings and 40 laboratories. These facilities supports a \$58 million economy, according to the county's economic development council.

If this facility is closed, a gaping hole would be left in the continuity of Federal research along the Atlantic Coast; one that serves as the direct liaison between university basic research and its application through practical "use inspired" research of the sort that is conducted at NMFS Beaufort. The lab should remain open.

PREPARED STATEMENT OF DOUGLAS A. WOLFE, PH.D. NOAA (RETIRED), BEAUFORT, NORTH CAROLINA

My statement is in direct opposition to the closure of the National Oceanic and Atmospheric Administration (NOAA) marine science laboratory located in Beaufort, North Carolina, as presently proposed in the President's fiscal year 2015 budget for the National Ocean Service (NOS), Coastal Science, Assessment, Response and Restoration: National Centers for Coastal Ocean Science (NCCOS) (NOAA Blue Book, page 8).

This facility, identified in the budget request as the Beaufort, North Carolina laboratory, has a long tradition of: (1) excellence in marine science and research, (2) fisheries management, (3) marine environmental restoration, and (4) collaboration with regional university programs in marine science research and education. Originally founded in 1899 by the U.S. Fisheries Commission, the Beaufort Laboratory is the second-oldest (after Woods Hole) Federal marine science facility in the United States. Its closure is not at all justified in the budget documents cited above and I respectfully request this subcommittee to:

1. direct NOAA's National Ocean Service not to close the Laboratory, and
2. recommend full funding for staffing and operations at the Beaufort Laboratory in fiscal year 2015 and subsequent years.

The balance of my statement will provide greater detail and justification for this position.

In the NOAA Bluebook: fiscal year 2015 Budget Summary, the National Ocean Service proposes (on page 8) "to reduce its physical footprint and fixed costs by closing the Beaufort North Carolina laboratory . . ." A NOAA spokeswoman in Silver Spring, Ciaran Clayton (Director of Communications and External Affairs), was further quoted in our local newspaper: "this aging facility requires infrastructure repairs and improvements exceeding agency budget resources." This appears to form the entire basis for the NOAA/NOS/NCCOS request for lab closure. But in fact, NOAA has routinely been maintaining and improving this facility. The two-story laboratory, originally constructed in 1963, was renovated in 1994 to remove the outdated seawater systems from the building and to correct the structural damage caused by that flaw in the original design. A new (2014) engineering report found no residual structural problems in this building. More recently, a new administration building was constructed in 2007 at a cost of \$7 million to house administrative and support staff offices, new library and conference room facilities, and the Offices of the North Carolina Estuarine Research Reserves (NERRS). In 2008 the maintenance building was replaced at a cost of \$960,000. In 2009 a chemical storage and hazmat building was constructed at a cost of \$1 million. Bridge renovation/replacement (2007) and seawall repairs (2014) were performed at a cost of \$3.5 million. Several smaller aging structures were demolished and removed from the premises. The total cost of facility upgrades within the past 7 years exceeds \$14 million, including a \$1 Million cost-sharing contribution from NERRS, \$500,000 of North Carolina State funds for stormwater runoff management, and a shared cost with Duke University for the bridge work. The present facility is modern in appearance and houses state-of-the art scientific instrumentation and equipment in support of the research programs conducted by the staff.

While the request for closure of the Beaufort Laboratory is presented in the NOAA/NOS/NCCOS budget statement, the Beaufort Laboratory in fact is occupied by programs and staff of three different NOAA components: NCCOS employs a permanent staff of 31; the National Marine Fisheries Service (NMFS) has a permanent staff of 40 at the facility, and NERRS—a program funded cooperatively by NOAA and the State of North Carolina—supports a permanent staff of 8 (all State employees of North Carolina). The Center employs 33 additional personnel—most of them science-related—on a temporary or contract basis. The ramifications of laboratory closure are not reflected in the budgets shown for either NMFS or NERRS. Nor have the impacts to the employees and their families and to the local community been carefully evaluated.

The Beaufort Laboratory has established an extraordinary record for scientific excellence in its research. NOAA and the Department of Commerce have repeatedly recognized individual researchers, research teams, and the Laboratory as a whole for the outstanding quality of the work performed there (with Commerce Gold Medals, Career Achievement Awards, Technology Transfer Award, etc.). Staff members at the Laboratory have also received major recognition and awards from professional scientific societies, including the Psychological Society of America and the Geochemical Society.

The laboratory's excellent research capabilities and reputation also attract support—both from other branches of NOAA and from other outside agencies which have recognized potential benefits of the Laboratory's studies, and have augmented the base-level program support provided by NOAA. For example, the Office of Aquaculture provided nearly \$1 million in fiscal year 2014 to conduct a feasibility study for sustainable aquaculture on the U.S. Atlantic coast, Gulf of Mexico, Caribbean (U.S. possessions), the Pacific west coast, and the Hawaiian archipelago. Other recent research initiatives of the NCCOS staff at the Beaufort Laboratory include (a) ecology of and responses to harmful algal blooms; (b) restoration of injured habitats including seagrass, saltmarsh, and reef systems; (c) ecosystem responses to climate change; and (d) population dynamics and spread of invasive species, such as lionfish. The current focus of the NMFS staff at the Beaufort Laboratory is on: (a) studies of population dynamics and stock assessments in support of fisheries management, especially of Atlantic menhaden and the offshore snapper/grouper and other reef fisheries; (b) population dynamics and health of protected and endangered species, including sea turtles and marine mammals; (c) densities of coral and the reproduction and life histories of reef fish; and (d) ecological studies on the ecosystem structure and function of the southeastern U.S. continental shelf system that supports

these fisheries and protected species. The responsibility of NERRS staff at the Beaufort Laboratory is direction and management of the four major Estuarine Research Reserves in North Carolina, one of which—the Rachel Carson Reserve—is located directly across the navigation channel from the Beaufort Laboratory, which provides a most convenient and economical logistics base for field research, training and educational programs at their reserve.

It is ironic (to the point of giving an impression of fiscal irresponsibility) that the NOS/NCCOS budget initiative for fiscal year 2015 requests increased research funding for coastal ocean issues, including harmful algal blooms, hypoxia, and coastal ecosystem management at the same time it is proposing to close the Beaufort Laboratory, which has well-established expertise and the facilities required to address many of those very same issues.

The Beaufort Laboratory is strategically located for temperate and subtropical marine and estuarine habitat studies on the east coast of North America. It was no accident that Beaufort, North Carolina was selected by the U.S. Bureau of Fisheries as the location for this laboratory, and not surprising that several Universities and State agencies have also located marine research facilities in the same area. North Carolina has one of the longest coastlines and greatest estuarine areas of any State on the east coast; and the Gulf Stream approaches the coast more closely at Cape Hatteras and Cape Lookout than at any other point north of Cape Kennedy, Florida—accounting for the occurrence of tropical corals and reef habitats just at and beyond the edge of the broad continental shelf. Laboratory scientists at the Beaufort Laboratory have developed academic affiliations with several nearby universities, especially with North Carolina State University, University of North Carolina-Wilmington, and East Carolina University, and have helped to sponsor graduate student research on many topics related to NOAA's initiatives. Close ties and research collaboration also exist between laboratory scientists and the faculty at the adjacent Duke University Marine Laboratory, and the University of North Carolina Institute of Marine Sciences in nearby Morehead City. The Beaufort Laboratory is an excellent living example of a truly effective Federal-Academic Partnership. The NERRS facility at the Beaufort Laboratory also provides educational experience and opportunities to thousands of elementary and secondary school students every year.

The Beaufort Laboratory also provides administrative support and scientific direction for a field laboratory at Kasitsna Bay, Alaska, where researchers are quantifying ecosystem change and studying variability in ocean acidification in nearshore subarctic Alaskan habitats. In partnership with the University of Alaska, Native corporations and marine conservation groups, the Kasitsna Bay facility provides training in diving for scientific objectives, marine ecology and oceanography; conducts field science camps for high school students; and offers field housing for visiting researchers and students including NOAA undergraduate and graduate student interns. The implications of Beaufort Lab closure on the operation of the Kasitsna facility appear not to have been considered.

In conclusion I will repeat my earlier recommendation and request the Honorable Members of the Senate Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies to formulate appropriate strategies to:

1. direct NOAA/NOS not to close the Beaufort Laboratory as currently proposed, and remove all references to such closure in the final appropriation; and
2. direct NOAA to restore full funding for operations, staffing and research at the Beaufort Laboratory in fiscal year 2015 and subsequent years.

Thank you for your consideration.

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