

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515-6216
One Hundred Eleventh Congress

March 13, 2009

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

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

Dear Chairman Spratt and Ranking Member Ryan:

Pursuant to section 301(d) of the Congressional Budget Act of 1974 (2 U.S.C. §632(d)) and House Rule X, clause 4(f), we are submitting the views and estimates of the Committee on the Judiciary on the President's budget proposal for Fiscal Year 2010. Recognizing that the new Administration's FY 2010 budget proposal is still under development, the Committee bases its views on the Administration's FY 2010 top-line, summary proposal. These views and estimates encompass a broad range of programs within the Judiciary Committee's jurisdiction. We hope that they provide valuable guidance to your Committee as you prepare the budget resolution. We note that, while this document reflects the bipartisan views of the Members of the Committee, some Members may have individual views that are not reflected in this document. Please feel free to contact us or our staffs should you have any questions or concerns.

Sincerely,



John Conyers, Jr.
Chairman



Lamar Smith
Ranking Member

Enclosure

**COMMITTEE ON THE JUDICIARY
VIEWS AND ESTIMATES FOR FISCAL YEAR 2010**

MANDATORY SPENDING

FEDERAL JUDICIARY

The Committee is acutely aware of the increased workload on the Federal Judiciary and understands that the Judiciary has no control over the number of cases that are filed in the courts - it must handle each case filed - and that it has no flexibility over how quickly it must handle many of these cases.

This lack of flexibility strains the resources of the Federal Judiciary. The strain is particularly severe this fiscal year given current and expected increases in bankruptcy filings caused by the economic downturn, immigration and border enforcement work, court security necessities, infrastructure maintenance efforts and other costs that are crucial to guarantee that those who seek the assistance of the judicial system have access to a fair forum in the most expeditious and safe environment possible. Thus, the Committee supports the appropriations request of \$7.04 billion for FY 2010, representing an increase of \$561 million or 8.7% over the FY 2009 appropriations level.

The Committee is also concerned about attracting and retaining quality judges in the Federal Judiciary. Therefore, the Committee hopes to move forward with its ongoing efforts to provide fair and adequate salaries for Federal judges balanced by reform to the judicial pension system.

PRIVATE CLAIMS LEGISLATION

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

DISCRETIONARY SPENDING

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The Administrative Conference of the United States (“ACUS”) is a nonpartisan body that makes many cost-saving recommendations which improve the efficiency and efficacy of regulatory law and practice. During the 110th Congress, ACUS was authorized to be appropriated \$3.2 million for FY 2009 pursuant to the Regulatory Improvement Act of 2007, Pub. L. 110-290. The recently enacted FY 2009 Omnibus Appropriations Act appropriates \$1.5

million. The Committee on the Judiciary recommends that \$3.2 million be authorized for ACUS in FY 2010 in accordance with Pub. L. 110-290.

ANTITRUST DIVISION (DOJ)

The President requests \$157.788 million for FY 2010, a \$7.788 million increase from the FY 2009 enacted level of \$150 million. The Committee supports the important work of the Antitrust Division and supports the increase. In light of the importance of the Division's various activities, the Committee encourages the Department to use the increased funding to pursue priorities important to Congress and the American people, such as merger enforcement to preserve competitive market structure and civil non-merger enforcement to deter and remedy anticompetitive business conduct, as well as criminal prosecution of cartel activity.

EXECUTIVE OFFICE FOR U.S. ATTORNEYS (DOJ)

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

The FY 2009 Omnibus Appropriations Act allocates \$1.836 billion for necessary expenses which was approximately \$5 million over the Administration's FY 2009 budget request for U.S. Attorneys (\$1.831 billion) and a \$88 million increase over the FY 2008 appropriation of \$1.748 billion.

The Committee fully appreciates the role of the U.S. Attorneys as the chief law enforcement representatives of the Department of Justice and is committed to ensuring they are given the necessary resources to fulfill their responsibilities.

FOREIGN CLAIMS SETTLEMENT COMMISSION

The Foreign Claims Settlement Commission of the United States ("FCSC") is a quasi-judicial, independent agency within the Department of Justice that adjudicates claims of U.S. nationals against foreign governments, under specific jurisdiction conferred by Congress, pursuant to international claims settlement agreements, or at the request of the Secretary of State. Funds for payment of the Commission's awards are derived from congressional appropriations, international claims settlements, or liquidation of foreign assets in the United States by the Departments of Justice and the Treasury.

There has been little significant change in the operation of the FCSC. The budget request for the FCSC for FY 2009 was \$1.8 million and the FY 2009 Omnibus Appropriations Act

provides \$1.82 million. This is a slight increase above the \$1.6 million appropriated for FY 2008. The Committee recommends that FCSC continue to be adequately funded in FY 2010.

U.S. TRUSTEE PROGRAM (DOJ)

The U.S. Trustee Program is charged with supervising the administration of bankruptcy cases and trustees. Its mission is to protect and preserve the integrity of the U.S. bankruptcy system by regulating the conduct of parties, ensuring compliance with applicable laws and procedures, bringing civil actions to address bankruptcy abuse, securing the just and efficient resolution of bankruptcy cases, and referring bankruptcy crimes for prosecution. The Program is self-funded through user fees paid by participants in the bankruptcy system. The Program's appropriation is offset by fees it collects during the fiscal year. These monies are paid into the U.S. Trustee System Fund. Approximately 55% of the Program's funding is subsidized by quarterly fees paid by Chapter 11 debtors. The remaining 45% of its funding is derived from a portion of filing fees paid to commence bankruptcy cases, interest earnings, and other miscellaneous revenues.

The FY 2009 Omnibus Appropriations Act provides \$217.416 million, which reflects an increase of \$7.653 million over the prior fiscal year appropriated level of \$209.763 million. This increase is principally comprised of adjustments to base consisting of \$4.6 million (representing expenditures for a 2.9% pay raise for FY 2009 and a 3.5% annualized pay raise for FY 2008) and \$2.7 million for rent. The increase does not include any program enhancements. The Act provides that \$160 million of offsetting collections pursuant to 28 U.S.C. § 589a(b) must be retained and used for necessary expenses and remain available until expended. In addition, the Act provides that the sum appropriated from the Fund must be reduced as offsetting collections are received during FY 2009, so as to result in a final FY 2009 appropriation from the Fund estimated at \$52.416 million.

The President's top-line budget request for FY 2010 includes a 3.5% increase over the prior year's budget, which in part will be used to combat financial fraud and to investigate mortgage fraud. According to the Justice Department, these funds will provide resources "to protect investors, the integrity of the market, and the federal government's investment of resources in the nation's financial recovery." The Committee supports the requested increase.

OFFICE OF THE INSPECTOR GENERAL (DOJ)

The Office of the Inspector General ("OIG") is an independent office within the Justice Department that is charged with conducting investigations, audits, inspections, and special reviews of Justice Department personnel and programs to detect and deter waste, fraud, abuse, and misconduct, and to promote integrity, economy, efficiency, and effectiveness in Department operations. For FY 2009, the Administration requested and the FY 2009 Omnibus Appropriations Act provides \$75.681 million, a \$5.08 million increase over the \$70.6 million appropriated for FY 2008. The Committee supports the work of the OIG and recommends funding at an appropriate level for FY 2010.

NATIONAL SECURITY DIVISION (DOJ)

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

For FY 2010, the Administration proposes \$88 million to address the President's highest priority to protect the American people from terrorist acts; funding supports the detection and disruption of terrorists, counterintelligence, cyber security, and other threats against our national security. The Committee supports this request.

GENERAL LEGAL ACTIVITIES (DOJ)

Office of Solicitor General

The Office of Solicitor General supervises and processes all appellate matters and represents the Federal government before the Supreme Court. The FY 2009 Omnibus Appropriations Act allocates \$10.44 million for the Office of Solicitor General, which is \$560,000 more than the \$9.88 million enacted in FY 2008. The Committee considers the work of the Solicitor General an important element of the role played by the Department of Justice and is supportive of ensuring that the Solicitor General's office has sufficient resources to properly fulfill its mission within the Department.

Civil Division

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

The FY 2009 Omnibus Appropriations Act allocates \$270.431 million for the Civil

Division, which represents a \$20.317 million increase over the FY 2008 enacted level of \$250.114 million.

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

Environment and Natural Resources Division

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

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

Civil Rights Division

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

The Administration has requested \$145 million for the Civil Rights Division for FY 2010, which is an increase from the Bush Administration’s request of \$123.151 million for FY 2009. The FY 2009 budget request was inclusive of 713 positions and 715 direct full-time employees, of which criminal enforcement represented 100 full-time employees and \$13.953 million of the proposed budget, and civil enforcement represented 615 full-time employees and \$109.198 million.

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

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (DOJ)

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

The President’s budget does not specify the amount within the DOJ budget request dedicated to EOIR for FY 2010. The Bush Administration requested \$261.4 million in FY 2009, an increase of \$27 million over the enacted FY 2008 spending level. This amount included \$10 million from the Southwest Border Enforcement Initiative. The Administration did not request additional full-time personnel for EOIR in FY 2009.

The Committee continues to be concerned about the staffing level for Immigration Judges. Despite the fact that former Attorney General Alberto Gonzales called for hiring additional Immigration Judges as a part of his plan to improve EOIR in 2006, the number of Immigration Judges with regular caseloads has in fact shrank from 218 in 2006 to 210 in 2008.¹ The Committee encourages EOIR to consider whether additional personnel may be necessary in FY 2010 to ensure that it can keep pace with the increased immigration enforcement efforts, so that respondents in removal proceedings receive due process and that potentially dangerous aliens are removed in a timely manner. The Committee recommends that EOIR be funded at a level that will enable it to achieve these goals.

COMMUNITY RELATIONS SERVICE (DOJ)

The Community Relations Service (“CRS”) was established under Title X of the Civil Rights Act of 1964 (42 U.S.C. 2000g *et seq.*). Since 1964, CRS has been responsible for the Prevention and Conciliation of Community Disputes Program, which provides conciliation and mediation assistance to communities with the goal of achieving peaceful and voluntary resolution of racial and ethnic conflict. The President’s budget does not contain programmatic levels, so it is not yet clear what will be requested for FY 2010. The Bush Administration requested \$9.873 million for CRS in FY 2009, an increase of \$79,000 from the FY 2008 appropriation of \$9.794 million. The FY 2009 Omnibus Appropriations Act provides \$9.873 million. The Committee recommends that CRS be funded at a level necessary to achieve its important objectives.

FEDERAL BUREAU OF INVESTIGATION (DOJ)

The Federal Bureau of Investigation (“FBI”) is the nation’s largest federal law enforcement agency, charged with investigating terrorism, cybercrimes, public corruption, white

¹ “Improving the Immigration Courts: Effort to Hire More Judges Falls Short,” 2008, Transactional Records Access Clearinghouse (TRAC), at <http://trac.syr.edu/immigration/reports/189/>.

collar crime, organized crime, civil rights violations, and other federal offenses.

The FY 2009 Omnibus Appropriations Act allocates \$7.065 billion for the Bureau, which is equal to the Administration's budget request. The FBI's White Collar Crime program is straining to keep pace with a mortgage fraud caseload that has increased by more than 55% since 2003. The Bureau has testified that it currently has more than 1,800 mortgage fraud investigations open, but only 240 agents specifically assigned to mortgage fraud matters. To address this problem, the omnibus bill provides additional resources dedicated to an increase in agents assigned to mortgage fraud. The Committee strongly supports additional resources for FBI agents to investigate not only mortgage fraud, but also other corporate crime and financial institution fraud related to the economic crisis.

U.S. MARSHALS SERVICE (DOJ)

The Marshals Service ("USMS") has varied responsibilities. The USMS administers the Asset Forfeiture Program of the Justice Department; conducts investigations involving escaped federal prisoners and other fugitives; ensures safety at judicial proceedings; assumes custody of individuals arrested by all federal agencies; houses and transports prisoners; and manages the Witness Security Program. The Committee supports funding for the USMS at levels necessary to accomplish its various missions.

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

The FY 2009 Omnibus Appropriations Act provides \$1.054 billion for the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), which is \$26.401 million above the FY 2009 budget request.

For the FY 2010 request, the Committee supports ATF's Project Gunrunner, which is focused on reducing the flow of firearms being trafficked to Mexican Drug Trafficking Organizations. The Committee notes the \$10 million allocation to Project Gunrunner in the Recovery Act and supports additional funding. The Committee also continues to support ATF funding to enhance and expand its capability to prevent and disrupt traffickers of contraband cigarettes and other tobacco products. Resources are needed to establish tobacco enforcement teams and to create a robust tobacco enforcement division. Through contraband tobacco trafficking interdiction efforts, ATF reduces the loss of tax revenues to federal, state and local governments.

DRUG ENFORCEMENT ADMINISTRATION (DOJ)

The Drug Enforcement Administration ("DEA") is the lead federal agency tasked with reducing the illicit supply and abuse of narcotics and drugs through drug interdiction and seizing of illicit revenues and assets from drug trafficking organizations. The FY 2009 Omnibus appropriations bill allocates \$1,939,084,000 for the DEA, which is \$2,500,000 above the FY 2009 budget request. The Committee recommends funding at an appropriate level for FY2010.

FEDERAL BUREAU OF PRISONS

The Federal Bureau of Prisons (“BOP”) is responsible for confining Federal offenders in prisons and community-based facilities. For FY 2009, \$5.6 billion has been proposed for the administration, operation, and maintenance of Federal penal and correctional institutions. The Committee notes that BOP staffing levels, specifically those for correctional officers, have decreased significantly over the last eight years and the Committee would support an additional \$300 million to increase staffing to a level that would provide safe and secure environments inside BOP facilities. The Committee also continues to support the Federal Prison Industries program efforts to provide jobs and job skills to BOP offenders.

OFFICE OF JUSTICE PROGRAMS (DOJ)

Community-Oriented Policing Services

Community-Oriented Policing Services (“COPS”) is an important tool in the effort to fight crime. Implemented in 1994, COPS focuses on local strategies to fight crime and has been praised by Federal, state, and local law enforcement and political officials. The COPS program was created by Title I of the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103-322). The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) reauthorized the COPS program through FY 2009 for approximately \$1.05 billion per year. According to the COPS program office, it has awarded more than \$11.4 billion to over 13,000 law enforcement agencies across the United States since it started awarding grants in 1994.

In contrast to previous years, the FY 2009 request of \$4 million for this program was extremely low. The program received a \$1 billion allocation through the American Recovery and Reinvestment Plan. Since authorization for the program is set to expire, Congress must reauthorize the program.

The Committee will continue to conduct oversight to ensure that the COPS program is funded at an appropriate level.

Office of Violence Against Women

The Office on Violence Against Women (“OVW”) provides national leadership in developing the nation's capacity to reduce violence against women through the implementation of the Violence Against Women Act (“VAWA”). Created in 1995, OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices aimed at ending domestic violence, dating violence, sexual assault, and stalking.

The Violence Against Women Act of 2000 and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. 109-162, reauthorized the grant

programs created by the original VAWA and subsequent legislation, as well as established new programs.

The Office received a much needed boost of \$225 million through the Recovery Act which funded critical programs such as the “Services Training Officers Prosecutors Formula Grant Program” or STOP Program. The FY 2009 Omnibus Appropriations Act provides \$416 million for VAWA. The Committee recommends full funding of all the various grants programs under OVW, similar to the \$683 million authorized by the VAWA Reauthorization of 2005.

Juvenile Justice

The Juvenile Accountability Block Grant (“JABG”) has helped states strengthen their juvenile justice systems. The Committee reauthorized the JABG program with an annual allocation of \$350 million through FY 2009. Only \$55 million was requested for FY 2009. For FY 2010, the Committee believes it should be reauthorized and funded at the authorized level.

Project ChildSafe is a Federal, state, and local partnership designed to ensure that child safety locks are made available for every handgun in America. Such locks prevent the unauthorized use and inadvertent discharge of firearms. In the past, this program has received support from the Judiciary Committee. The program did not receive funding in FY 2008. The Committee recommends funding at an appropriate level for FY 2010.

Second Chance Act

The President requests \$109 million for prisoner reentry programs as part of the budget for the U.S. Department of Justice. Of that budgeted amount, \$75 million would be set aside to expand programs authorized by the Second Chance Act. The Committee recognizes the Administration’s commitment to re-entry programs which provide counseling, job training, drug treatment, and other transitional assistance to former prisoners. However, given the challenges faced by the re-entry community in the facing of shrinking state and local budget, the Committee recommends full FY 2010 appropriation of \$165 million for the Second Chance Act.

Mentally Ill Offender Act

The Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008, signed into law on October 14, 2008, reauthorizes funding for the Adult and Juvenile Collaborations Program grants. The Act authorizes \$50 million for each fiscal year for FY2009 through FY2014; however, the FY2009 Omnibus bill appropriates \$10 million for the program. The Committee supports funding for the program at the authorized level.

STATE AND LOCAL LAW ENFORCEMENT

Byrne Justice Assistance Grants

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

With the help of Byrne JAG funding, our state and local law enforcement officers have made tremendous strides in combating illegal drugs. The Byrne JAG grants have been proven to be effective and critical to public safety. In FY 2008, the Byrne JAG program was cut by two-thirds of its amount, receiving only \$170.4 million. The American Recovery and Reinvestment Plan allocated \$2 billion in funding to the Byrne JAG program and is allocated for use over the next four years. The FY 2009 Omnibus Appropriations Act provides \$546 million for the program. The program is authorized at \$1.095 billion and the Committee recommends full appropriation for FY 2010.

The Adam Walsh Child Protection and Safety Act was enacted in 2006. Title I of the Act, the Sex Offender Registration and Notification Act (SORNA), established a comprehensive national system for the registration and notification to the public of those offenders. In addition, a number of new grant programs, under Byrne JAG, were also authorized to assist states in improving sex offender registration and related requirements under the Act. States report that a large hurdle to SORNA compliance is the lack of federal funding. The Committee recommends funding the Adam Walsh Act at appropriate levels.

DNA Backlog Elimination

The Committee supports full funding for the Debbie Smith Act, which funds reducing the backlog of DNA evidence in the nation's labs, as well as the Innocence Protection Act (IPA), which funds post-conviction DNA testing. We have been at full or close to full authorization levels for these programs and still have significant backlogs. This technology is crucial and as it is increasingly used, an increasing amount of departments are amassing biological evidence for use in criminal cases. But, using the technology and storing the evidence is costly.

Much biological evidence has been cleared through the President's DNA Initiative over the past few years. As more departments explore the technology and its superiority, however, the backlog has remained level because of the new evidence retained. In FY 2008, \$147.4 million was appropriated under the Debbie Smith Act, almost the authorized level of \$151 million; \$5 million was appropriated for the Innocence Protection Act, the fully authorized level. The FY 2009 Omnibus Appropriations Act provides funding at the fully authorized levels – \$151 million for the Debbie Smith Act and \$5 million for the Innocence Protection Act. The Committee

recommends future funding at the full authorization level for each initiative.

Services for Victims of Crime

The Victims of Crime Act (“VOCA”) Fund was created by Congress in 1984 to provide Federal support to state and local programs that assist victims of crime. The VOCA Fund is derived entirely from fines and penalties paid by offenders at the Federal level - not taxpayer revenues - and is primarily distributed through state formula grants. When the Fund was authorized in 1984, a cap was placed on that amount which could be deposited annually for the first eight years; the cap was lifted in FY 1994 and reinstated in FY 2000. For FY 2008, Congress included a \$590 million cap for VOCA Fund grants in the 2008 Consolidated Appropriations Act (Pub. L. 110-161). The Committee supports raising the cap of VOCA funds to \$717 million. The Committee also notes and supports the appropriation of \$100 million in the Recovery Act for grant funding to be administered by the Department of Justice.

U.S. SECRET SERVICE

The U.S. Secret Service (“USSC”) is primarily tasked with two law enforcement functions, handling protection and conducting criminal investigations. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, and computer fraud. The protection mission covers the President and Vice President, among others. The Secret Service is also responsible for security activities at National Special Security Events (NSSEs), which include the Party Nominating Conventions, as well as international conferences and events held in the United States. In FY2009, the Secret Service received \$1 million for NSSE costs. In addition to an appropriate level of funding to cover the core law enforcement missions of the USSC, the Committee supports additional funding for NSSE costs. The Committee also supports additional funding for the Secret Service Electronic Crimes Program. The FY 2009 Omnibus Appropriations Act allocates \$100 million for USSC. The Committee supports funding at an appropriate level for FY 2010.

U.S. CUSTOMS AND BORDER PROTECTION (DHS)

The Department of Homeland Security’s U.S. Customs and Border Protection (“CBP”) is the federal agency principally responsible for the security of the Nation’s borders, at and between the ports of entry along the border and at our seaports and airports. The Committee supports CBP’s various missions, including the work of Inspectors and Border Patrol Agents who are an essential component of our immigration-enforcement system and serve as a critical shield against those who would enter the U.S. unlawfully.

The President’s budget does not contain programmatic levels, so it is not yet clear what will be requested for FY 2010. The President’s budget, however, does specifically provide “\$45 million for the expansion of an exit pilot at key land ports of entry and other border security priorities.” The President’s budget also notes that “[f]unding of \$368 million within existing

Customs and Border Protection funds support 20,000 Border Patrol agents protecting nearly 6,000 miles of U.S. borders.”

The Bush Administration requested \$10.9 billion (\$9.5 billion in appropriated funds and \$1.5 billion in mandatory fee collections) for CBP in FY 2009, an increase of \$100 million from the FY 2008 enacted level of \$10.8 billion. However, \$1.5 billion of the FY 2008 enacted level was “emergency appropriations” funding.

The Committee notes its continuing concern regarding the high rate of attrition for Border Patrol agents and the increasing ratio between new agents and experienced agents who can appropriately manage the new agents. In addition, the Committee remains concerned about the lack of new infrastructure and improvements of Border Patrol facilities. The Committee supports the use of funding for the addition and improvement of Border Patrol facilities. The Committee also supports the use of funds to train border patrol agents on the appropriate and humane treatment of aliens apprehended at the border, as well as on efforts to minimize deaths along the southwest border, and on how to better protect themselves from increasing violence directed against them along the border.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (DHS)

U.S. Immigration and Customs Enforcement (“ICE”) is the largest investigative arm of DHS. Comprised of several components from the former Immigration and Naturalization Service (“INS”), the U.S. Customs Service, and the Federal Protective Service (“FPS”), the agency combines the investigative, detention, and removal, and intelligence functions of the former INS with the investigative and intelligence functions of the former Customs Service.

The President’s budget does not specify the amount within the DHS budget request dedicated to ICE for FY 2010. The President’s budget does provide, however, “over \$1.4 billion for Immigration and Customs Enforcement programs to ensure that illegal aliens who commit crimes are expeditiously identified and removed from the United States.”

The FY 2009 budget request for ICE was \$5.7 billion (\$5.4 billion in appropriated funds and \$312 million in mandatory fee collections). Last year, the Committee observed that the President’s request appeared to be a relatively modest increase of \$400 million from the FY 2008 enacted level of \$5 billion.

The Committee recommends sufficient funding for the comprehensive identification and removal of criminal aliens program, in addition to sufficient funding to prioritize the removal of criminal aliens through the Criminal Alien Program and the Institutional Removal Program.

With respect to the detention of aliens, the Committee supports the continuing improvement in the provision of medical attention and care to detainees. The Committee also continues to support “Alternatives to Detention” programs in appropriate circumstances.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES (DHS)

The United States Citizenship and Immigration Services (“USCIS”) administers the immigration service functions described in the Immigration and Nationality Act, such as adjudicating citizenship and immigration applications and petitions.

The President’s budget does not contain programmatic levels, so it is not yet clear what will be requested for FY 2010. The Bush Administration requested \$2.7 billion (\$151 million in appropriated funds and \$2.5 billion in mandatory fee collections) in FY 2009 .

The President’s budget includes \$110 million to fund E-Verify, a \$10 million increase over the FY 2009 level and \$40 million above the FY 2008 level. The Committee recommends that the increased funding be used to improve E-Verify for U.S. citizens and legal immigrants run through the system.

The FY 2010 budget “also supports strengthening the delivery of immigration services by streamlining and modernizing immigration application processes.” The Committee expects that this can be accomplished without another large increase in application fees, such as the June 2007 fee change that increased fees by an average of 69 percent.

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

US VISIT

The President’s budget allocates “\$45 million for the expansion of an exit pilot at key land ports of entry and other border security priorities.” The Committee has long supported sufficient funding to meet the entry-exit requirements mandated by Congress in 1996 in order to identify who is entering and exiting the U.S. and how long they stay in the country. It is not clear whether this exit pilot is a part of US VISIT.

OFFICE OF REFUGEE RESETTLEMENT (HHS)

The Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) provides assistance and services to refugees, asylees, unaccompanied alien children, victims of human trafficking, and certain Amerasian, Cuban, and Haitian immigrants. ORR assists these populations by providing a range of services, including cash and medical assistance, housing assistance, and economic and social integration services.

The President’s budget does not contain programmatic levels, so it is not yet clear what will be requested for FY 2010. The Bush Administration requested \$628 million for “Refugee and Entrant Assistance” in FY 2009, a decrease of \$28 million from what was appropriated in FY 2008. The Committee believes that significant additional funding would be appropriate in FY

2010, especially considering the difficulties the office will face in accomplishing its important missions during the coming fiscal year.

Transitional and Medical Services

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

The TAMS program is essential to meet the economic and medical needs of recently-arrived refugees, asylees, trafficking victims, and certain other vulnerable entrants. The program also serves the purpose of reducing costs to the federal government by helping refugees become employed and self-sufficient within a few months of arrival to the United States. Under the Voluntary Agency (Matching Grant) and Wilson-Fish programs, individual refugee resettlement agencies and several states divert refugees and other entrants from welfare dependency by providing intensive services that help refugees quickly become self-sufficient. The Matching Grant Program in particular has proved to be an efficient vehicle for assisting refugees attain economic self-sufficiency without accessing public cash assistance. The program has increased the number of refugees who have become economically self-sufficient within 6 months of arrival from 78 percent in CY 2004 to 83 percent in CY 2006. The program also maximizes private contributions, whereby resettlement agencies “match” federal grants with private cash and in-kind contributions on a 2:1 basis, providing an enormous amount of local community involvement in the resettlement process. The Committee believes such programs are essential and cost-effective and should receive increased funding.

The Committee also anticipates that an increased number of persons will be eligible for the above programs in FY 2010 over FY 2009. The Committee notes that the number of asylees and Cuban/Haitian entrants eligible for such programs will likely remain constant in FY 2010, but due to increased efforts by the Administration to improve the infrastructure related to refugee resettlement, refugee admissions will likely be higher than in FY 2009. Indeed, refugee admissions in the first five months of FY 2009 have increased by 60% compared to the same period in FY 2008. The Committee believes this upward trend will continue, resulting in even larger numbers of resettled refugees in FY 2010. Moreover, FY 2010 will also see increased levels of other entrants eligible for TAMS programs, including Iraqis who qualify for Special Immigrant Visas. An increased level of funding will be required to support services for the growing number of eligible persons in FY 2010.

Division for Unaccompanied Alien Children

Also of particular concern to the Committee is the funding level for ORR’s Division of Unaccompanied Alien Children (DUCS), which exercises responsibilities for the care and placement of unaccompanied alien children while they are awaiting resolution of questions relating to their immigration status. The Bush Administration requested \$114 million in FY 2009, a decrease of \$19 million from the amount appropriated in FY 2008.

ORR provided services to over 8,200 unaccompanied alien children in each of the prior two fiscal years. This number is likely to increase significantly in FY 2010, especially considering the recent enactment of The William Wilberforce Trafficking Victims Reauthorization Act of 2008 (Public Law 110-457). This Act strengthens protections for unaccompanied alien children at the border and in the nation's interior, establishing policies and programs to identify child victims of trafficking and to protect all unaccompanied alien children from traffickers and other persons seeking to harm and exploit them. These changes are likely to increase the number of children requiring ORR services. An increase in funding is needed to ensure quality custodial care and services to these children; to increase the use of smaller, child-centered custodial settings that are more appropriate for children; to ensure that sufficient home studies and suitability assessments are performed; and to expand ORR's pro bono legal services program.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

The Committee recommends that the State Criminal Alien Assistance Program ("SCAAP"), which was reauthorized in the Violence Against Women and Department of Justice Reauthorization Act of 2005, be funded at the full \$950 million authorization in FY2010. The program has been significantly underfunded since its inception under the Violent Crime Control and Law Enforcement Act of 1994.

State and local governments have had to bear an immense fiscal burden as a result of incarcerating criminal aliens. Although control of our nation's borders is a federal responsibility, states and localities are only partially reimbursed for these expenditures. The Committee believes that SCAAP should be adequately funded to assist state and local jurisdictions.

LEGAL SERVICES CORPORATION

The Legal Services Corporation ("LSC") is a non-profit entity established by Federal statute for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance. The FY 2009 Omnibus Appropriations Act would appropriate \$390 million to LSC, an overall increase in Federal funding from the FY 2008 appropriation of \$350.49 million. LSC continues to be funded at FY 2008 levels under a continuing resolution signed into law on September 30, 2008. The FY 2009 Omnibus Appropriations Act allocates \$365.8 million for basic field programs and required audits; \$4.2 million for the Office of Inspector General; \$16 million for management and grants oversight; and \$4 million for technology initiative grants and loan repayment assistance grants.

Pursuant to its independent budgetary authority, however, LSC requests \$485.1 million in appropriated funds for FY 2010. The request specifically allocates: \$460 million for basic field programs and required audits; \$3.5 million for the Office of Inspector General; \$17.2 million for management and grants oversight; \$3.4 million for technology initiative grants; and \$1 million for a loan repayment assistance program. The Committee is supportive of ensuring that LSC has sufficient resources to properly support its work.

OFFICE OF GOVERNMENT ETHICS

The Office of Government Ethics (“OGE”) is responsible for providing the overall direction of executive branch policies designed to prevent conflicts of interest and to ensure high ethical standards. For FY 2009, OGE is requesting \$13 million, an increase of \$1.25 million over the FY 2008 enacted level of \$ 11.75 million. The FY 2009 Omnibus Appropriations Act would appropriate \$13 million for FY 2009. The Committee recommends that OGE be adequately funded in FY 2010 to fulfill its important functions.

U.S. COMMISSION ON CIVIL RIGHTS

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

U.S. PATENT AND TRADEMARK OFFICE

As of the time of the writing of these views and estimates, the FY 2010 budget request for the United States Patent and Trademark Office (“USPTO”) was not available. However, the USPTO is a user fee funded agency and the Committee supports full-funding of the USPTO and the elimination of any incentive to use agency revenues for non-USPTO purposes. All revenue generated under the fee schedule, adopted as part of the Consolidated Appropriations Act of 2005, is necessary to implement the USPTO 21st Century Strategic Business Plan, including proposed quality initiatives, government initiatives, and enhanced patent processing.

Moreover, the downturn in the economy has negatively affected the USPTO’s ability to collect revenue, with fewer applications being filed for new patents and fewer maintenance fees being paid for their granted patents. Thus, now, more than ever, the USPTO needs full access to their revenues.

The Committee believes it is crucial to do everything possible to support the USPTO, reduce the patent backlog, increase patent quality, and make patent and trademark protection available to America’s innovators and small business founders, who contribute heavily to the creation of jobs in the United States.

The Committee will continue to work with the House Leadership and the Committee on Appropriations to ensure the end of the practice of user-fee diversion without compromising the ability of the Committee on Appropriations to oversee USPTO activities.

U.S. COPYRIGHT OFFICE

The Copyright Office budget is a separate appropriation in the overall budget for the Library of Congress. The Copyright Office administers the U.S. copyright laws, provides copyright expertise to the Congress and executive branch agencies, and actively promotes international protection for intellectual property created by U.S. citizens. Although the Committee cannot comment specifically on the FY 2010 budget request for the Copyright Office since that request was not publicly available at the time these views were written, the Committee expresses its support for ensuring that the Copyright Office has sufficient resources to properly carry out its work.

STATE JUSTICE INSTITUTE

Congress established the State Justice Institute (“SJI”) as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in state courts. SJI also fosters cooperation with the Federal Judiciary in areas of mutual concern. The Institute accomplishes this goal by providing funds to state courts and national organizations or nonprofits that support state courts.

Since its creation in 1987, the Institute has awarded more than \$135 million in grants and scholarships to support more than 1,750 projects. Pursuant to oversight legislation passed in the 107th Congress, the Attorney General, in consultation with the Federal Judicial Center, conducted a review of SJI operations and reported his findings to Congress. The Attorney General concluded that the Institute had been “effective” and had complied with its statutory mission. He further observed that “support for state court innovation and improvement is a federal interest.”

Following the Attorney General’s report, the 108th Congress reaffirmed its commitment to SJI by passing the State Justice Institute Reauthorization Act of 2004, Pub. L. 108-372, authorizing SJI’s operations through FY 2008.

For FY 2010, the Administration requests \$5.131 million for SJI, which is \$258,000 less than the previous Administration’s request for FY 2009, and \$1.031 million above the \$4.1 million allocated for SJI in the FY 2009 Omnibus Appropriations Act. The Committee supports this request, which will allow the Institute to increase its grants, especially smaller Technical Assistance Grants and Training Grants that allow state courts to address significant issues such as caseload, strategic planning and court procedures, and to provide important training to judges and court personnel.

PRO-IP IMPLEMENTATION

The Committee has determined that intellectual property theft has a major negative impact on the United States economy. To address this problem, the Committee authorized, through the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (PRO IP Act, P.L.

110-403), the creation of an Intellectual Property Enforcement Coordinator within the Executive Office of the President, who will chair an interagency intellectual property enforcement advisory committee, coordinate the development of the Joint Strategic Plan against counterfeiting and infringement, and provide other assistance in the coordination of intellectual property enforcement efforts. The Committee supports such sums as may be necessary to carry out this initiative.

Also through the PRO IP Act, the Committee authorized the Department of Justice to dedicate substantial law enforcement resources to tackling intellectual property piracy and counterfeiting. This includes; (1) \$25,000,000 for the IP-TIC grants program to fund State or local law enforcement entities (including law enforcement agencies of municipal governments and public educational institutions) for training, prevention, enforcement, and prosecution of intellectual property theft and infringement crimes; (2) \$10,000,000 to the Director of the Federal Bureau of Investigation and \$10,000,000 to the Attorney General for the Criminal Division of the Department of Justice to investigate and prosecute intellectual property crimes and other criminal activity involving computers; (3) \$10,000,000 to be used to provide at least 10 additional FBI agents to support the Computer Crime and Intellectual Property Section of the Criminal Division, at least one additional FBI agent in each Computer Hacking and Intellectual Property Crime Unit, and to ensure that at least two Assistant United States Attorneys are assigned to each Computer Hacking and Intellectual Property Crime Unit; and (4) to ensure the implementation of a regular and comprehensive training program.

The President's budget does not specify what funding will be provided the Intellectual Property Enforcement Coordinator, nor does it specify the amount within the DOJ budget request dedicated to PRO-IP implementation for FY 2010. The Committee supports funding the above authorized programs, as specified under the PRO IP Act.

OVERSIGHT OF GOVERNMENT PERFORMANCE

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