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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

MICHAEL O'NEILL, *Chief Counsel and Staff Director*
BRUCE A. COHEN, *Democratic Chief Counsel and Staff Director*

March 2, 2006

The Honorable Judd Gregg
Chairman
Committee on the Budget
United States Senate
Washington, D.C. 20510

The Honorable Kent Conrad
Ranking Member
Committee on the Budget
United States Senate
Washington, D.C. 20510

Dear Chairman Gregg and Senator Conrad:

As Chairman and Ranking Member of the Judiciary Committee, we thank you for this opportunity to express our views pursuant to Section 301(d) of the Congressional Budget Act concerning Fiscal Year (FY) 2007 funding for programs within the Judiciary Committee's authorizing jurisdiction.

The Administration's priorities this year include important programs of the Department of Justice (DOJ) and relevant components of the Department of Homeland Security. While we recognize that these departments must make counterterrorism activities their highest priority, we would like to ensure that traditional law enforcement duties are not neglected. Concomitant with the duty to review and authorize activities for these departments is a duty to ensure adequate resources for their essential functions. The requests that we are making, which are discussed in greater detail below, reflect this commitment and we urge they be given careful consideration.

The President has requested \$20.8 billion in total direct discretionary budget authority for the DOJ for FY 2007, which is a decrease from \$21.1 billion enacted in FY 2006. This decrease results largely from the President's request of \$1.228 billion in state and local assistance funding in FY 2007, a 51 percent decrease when compared to the FY 2006 level of \$2.537 billion. The DOJ is entrusted with the critical duty of enforcing our Nation's laws, as well as protecting the interests of the United States and its people from growing threats of terrorism and transnational crime. Additionally, one of the Department's key duties is providing assistance and advice to state and local law enforcement. Therefore, to put our requests in context, we generally agree with most of the funding levels the President has requested in FY 2007 for the DOJ, especially for national programs, but we are deeply concerned by the cuts to state and local programs. Our views letter initially demonstrates our support for, and some concerns regarding,

state and local funding and then addresses our view of national programs and agency funding.

Project Safe Neighborhoods (PSN)

Violent gun crime and trafficking continue to be significant law enforcement problems throughout the Nation. We support the Administration's commitment to getting gun criminals off the streets through the PSN initiative. PSN, announced by the President and Attorney General in 2001, is a comprehensive strategy that brings together federal, state, and local agencies to reduce gun crime in our communities. Working with DOJ, each community tailors the program to target local gun violence problems. The President's FY 2007 Budget includes \$22.1 million in enhancements and \$162.9 million in state and local directed resources. The President's request includes \$16.0 million for ATF to deploy 15 Violent Crime Impact Teams and \$6.1 million for the United States Attorneys' gang prosecutions. Also, most important to us, the President's request includes on the state and local level: \$58.523 million for State and Local Gun Violence Programs; \$992,000 for Project ChildSafe; \$14.879 million for Gang Training and Technical Assistance; \$49.348 million for Weed and Seed; and \$39.180 million for the National Criminal History Improvement Program. We fully support the Administration's requested funding for PSN and urge that this program be fully funded at the President's FY 2007 level.

Byrne Justice Assistance Grants (JAG) and Juvenile Accountability Incentive Block Grants (JAIBG)

In the FY 2007 President's Budget proposal, both the JAG and JAIBG grant programs have been eliminated. As Chairman and Ranking Member of the Judiciary Committee, we oppose the elimination of longstanding programs that many of our local communities rely upon. The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) consolidates the Byrne grant program with the LLEBG grant program and authorizes \$1.095 billion to be appropriated in 2006 "and such sums as may be necessary for each of the fiscal years 2007 through 2009." We strongly urge that these programs be funded at their FY 2006 authorization level in FY 2007.

Youth Violence Reduction Demonstration Grant Program

Sec. 1199 of H.R. 3042 requires the Attorney General to make up to 5 grants for the purpose of carrying out Youth Violence Demonstration Projects to reduce juvenile violence, homicides, and recidivism among high-risk populations. The provision authorizes \$50 million for fiscal year 2007 and such sums as necessary for fiscal years 2008 through 2009. It caps Youth Violence Demonstration Project award amounts at \$15 million per fiscal year. It also sets forth the following requirements of grantees: 1) a program strategy targeting areas with the highest incidence of violence and homicides; 2) outcome measures and specific objective indicia of performance to assess the effectiveness of a program; and 3) a plan for evaluation by an independent third party.

This section also requires that at least one recipient of a grant under this section be a city with a population exceeding 1 million and a juvenile homicide rate increase of at least 35 percent over the past calendar year and no less than one recipient must be a non-metropolitan county with per capita arrest rates of juveniles for serious violent offenses that exceed the national average for non-metropolitan counties by at least 5 percent. We strongly urge this authorization be fully funded.

Community Oriented Policing Services (COPS)

The Community Oriented Policing Services (COPS) Program is a resounding success. Since 1995, COPS has awarded \$11.5 billion in grants to law enforcement agencies, putting more than 118,000 new law enforcement officers on the streets in over 13,000 communities in all 50 states. Violent crime in this country has declined 25 percent in the past decade. Community policing and the outstanding work of so many law enforcement officers have played a vital role in our crime control efforts.

As it has attempted in previous years, the Administration proposes to reduce funding for COPS initiatives. The FY 2007 budget proposal aims to cut COPS funding by \$161.2 million. Enactment of this budget would mean the elimination of COPS grants for the COPS Law Enforcement Technology Program and the Reduce Gang Violence Program, as well as drastic reductions in equipment and support staff grants on which state and local law enforcement agencies heavily rely to carry out their crime-fighting duties. Some of the state and local programs proposed to be cut include grants to upgrade criminal records, a DNA initiative, an offender re-entry program, and a matching program for bulletproof vests.

The President also seeks to reduce by \$23.3 million, or 37 percent, COPS Methamphetamine Enforcement and Clean-Up for state and local law enforcement programs to combat methamphetamine production and distribution, to target drug “hot spots,” and to remove and dispose of hazardous materials at clandestine methamphetamine labs. We strongly oppose these reductions in COPS.

Crimes Victims Fund

We respectfully request that you oppose proposals to rescind all amounts remaining in the Crime Victims Fund (“the Fund”) at the end of FY 2007, and permit those amounts to remain in the fund for use as authorized by the Victims of Crime Act (VOCA), Public Law 98-473.

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

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

In FY 2000, Congress began limiting the amount of Fund deposits that could be obligated each year. This was in response to fluctuations in Fund deposits in order to “ensure that a stable level of funding will remain available for these programs in future years.” That same year, Congress amended the law to ensure all receipts remain in the Fund for obligation in future fiscal years. These steps created a balance in the Fund for use in years when deposits fell below the annual cap. These balances have been needed three times in the past six years to meet annual Fund obligations enabling VOCA to honor the pledge Congress made to sustain critical victim services. These services are essential to numerous victims’ assistance programs in every state. Every state has programs that would be affected or discontinued if this rescission is allowed to stand.

Last year, the Senate was able to block a similar proposal by adopting an amendment to the FY 2006 Senate Budget Resolution supporting the retention of all amounts deposited into the Fund for uses authorized under the VOCA statute. We urge you to refrain from adopting the President’s rescission proposal and to continue the retention of all deposits in the Crime Victims Fund. Rescission of this vital funding source would leave zero dollars available at the beginning of FY 2008 and would create a disastrous situation for providers of victims’ services.

Bulletproof Vest Partnership

The Bulletproof Vest Partnership (BVP) Grant Program plays a vital role in distributing lifesaving bulletproof vests to law enforcement officers serving in the front lines nationwide. However, the President’s FY 2007 budget proposes to drastically reduce funding of this program by almost \$20 million, which is approximately a 67 percent cut. The BVP Program was reauthorized as part of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162). That law authorizes \$50 million per year through FY 2009 for this successful program that protects the lives of State and local law enforcement officers. Indeed, the BVP is so successful that since 1999 it has provided law enforcement officers in 11,500 jurisdictions nationwide with nearly 500,000 new bulletproof vests.

Compounding the usual funding demand for help to purchase vests, concerns from the law enforcement community over the effectiveness of body armor surfaced nearly two years ago when a Pennsylvania police officer was shot and critically wounded through his relatively new Zylon-based body armor vest. In August 2005, DOJ announced that test results indicate that used Zylon-containing body armor vests may not provide the intended level of ballistic resistance. Unfortunately, an estimated 200,000

Zylon-based vests have been purchased – many with BVP funds – and now need to be replaced. The Justice Department has adopted new interim requirements for its body armor compliance testing program and also provided an additional \$10 million to the \$23.6 million already available in FY 2005 to law enforcement through BVP grants to assist agencies in their replacement of Zylon-based body armor vests.

Across our nation, law enforcement agencies are struggling over how to find the funds necessary to replace defective vests that are less than five years old with ones that will actually stop bullets and save lives. Vests cost between \$500 and \$1,000 each, depending on the style. The extra \$10 million released by the Justice Department, while appreciated, is less than we feel is necessary. Therefore, we strongly urge the Committee to provide the authorized amount of \$50 million for FY 2007.

High Intensity Drug Trafficking Areas Program (HIDTA)

In the FY 2007 President's Budget, resources for HIDTA have been realigned under the DOJ as a separate activity within the Organized Crime Drug Enforcement Task Force (OCDETF), and the requested amount of \$207.6 million is down from the FY 2006 enacted level of \$225 million. Our largest concern is the relocation of the HIDTA program from the Office of National Drug Control Policy (ONDCP), where it had been placed by Congress, into the OCDETF program. We are also concerned that this shift has been linked to a reduction of nearly \$18 million in HIDTA funds. The HIDTA program started in 1990 with five designated HIDTAs and has since grown to 28. This transfer of the HIDTA program from ONDCP to the Justice Department appears to have been undertaken with little or no consultation with Congress. Among other things, it is unclear whether the mission and purpose of the HIDTA program is consistent with the case-driven organization of the OCDETF program. Accordingly, we are concerned whether the proposed program transfer and budget reduction are consistent with our shared goal of fully integrating federal, state, and local agencies in the fight against illegal drugs. For this reason, we cannot support this proposed change without further justification and congressional fact-finding.

State Criminal Alien Assistance Program (SCAAP)

Enacted as part of the Violent Crime Control and Law Enforcement Act of 1994, the SCAAP reimburses states and localities that incur costs for incarcerating undocumented criminal aliens. Funding for SCAAP has been appropriated by Congress annually since 1995. These awards cover only a portion of the costs that state and localities must incur to house undocumented criminal aliens. The program is administered by the Office of Justice Programs' Bureau of Justice Assistance. For FY 2004, Congress appropriated \$296.8 million, of which \$281.6 million was awarded to the states. In FY 2005, Congress appropriated \$301 million. In FY 2006, Congress enacted \$399.828 million. As in the FY 2006 proposal, the Administration proposed eliminating the entire program again in FY 2007.

For the past several years, we have been troubled by the Administration's proposal to eliminate SCAAP, leaving state and local governments to cover the additional expenses for illegal alien incarceration. The increasing number of illegal aliens in the United States - estimated in the millions, coupled with the fact that a percentage of these aliens commit felonies while present in our country, causes many of our state and local governments to spend part of their already-scarce resources on the prosecution and incarceration of these criminal aliens. The SCAAP program was initially established because of the overriding principle that protecting the nation's borders from illegal immigration is the responsibility of the federal government. States and localities have no other option but to house these individuals, and, without necessary federal funding, this is very similar to an unfunded mandate. Thus, states will be forced to relocate monies from other areas. Cutting this program will significantly impair our ability to prosecute and remove criminal aliens. Last year the Senate passed the State Criminal Alien Assistance Program Reauthorization Act of 2005. If this bill is enacted, \$850 million would be authorized to be expended on SCAAP. We believe the program should be funded to at least the FY 2006 enacted level to assist states and local jurisdictions. Should the Senate-passed reauthorization be enacted, we believe that the program should be funded at its full authorized level.

Regional Information Sharing System (RISS)

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

We must ensure that RISS can continue current services, meet increased membership support needs for terrorism investigations and prosecutions, increase intelligence analysis capabilities and add staff to support the increasing numbers of RISS members. Therefore, we support the Administration's request that the RISS program be funded at \$53.8 million.

Justice For All Act

The Justice For All Act reflects years of hard work and is an important piece of legislation that stands to improve the quality of justice for all Americans. We support full funding of all the programs authorized by the Justice For All Act, including, for FY 2007: \$5,000,000 for enhancement of the Victim Notification System, as authorized in section 103; \$28,500,000 for the other victims' programs authorized in section 103; \$151,000,000 for the Debbie Smith DNA Backlog Grant Program, as authorized in section 202; \$102,100,000 for the other DNA programs authorized in sections 303-308; \$5,000,000 for the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program, as authorized in section 412; and \$75,000,000 for the Capital Representation and Capital

Prosecution Improvement Grants, as authorized in section 426. We also support full funding of the Paul Coverdell Forensic Sciences Improvement Grant Program, as expanded by section 311 of the Justice for All Act.

The Justice For All Act represents a strong bipartisan consensus on how to best help crime victims, maximize the use of forensic DNA evidence, and reduce the risk of error in capital cases. This legislative achievement was an important step toward improving our criminal justice system and deserves necessary funding. Therefore, we recommend full funding for the Justice For All Act and certainly no less than the total funding levels the President has proposed for improvements to the criminal justice system, such as funding for forensic DNA technology and competent counsel, be secured for the Justice For All Act and its carefully crafted, bipartisan programs.

Violence Against Women Act

The Violence Against Women Act was reauthorized when the President signed into law the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) on January 5, 2006. This important legislation built upon the Violence Against Women Act of 1994 (Public Law 103-322) and the Violence Against Women Act of 2000 (Public Law 106-386). Grants available through VAWA aid law enforcement officers and prosecutors, help stem domestic violence and child abuse, and establish training programs for victim advocates and counselors, among other critical services.

The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) authorized \$1 billion for programs administered by the DOJ and the Department of Health and Human Services (HHS) to aid domestic violence victims and survivors. In his budget proposal for FY07, the President requested a total of \$546.2 million in funding for VAWA programs. The request includes \$368.8 million for DOJ-administered VAWA programs, which is \$311.2 million less than authorized in the law. For programs administered by HHS, the President requested \$177.3 million, which is \$142.8 million less than authorized.

VAWA programs and services have the potential to prevent violence and to change the lives of victims. We feel that this law, which has enjoyed broad bipartisan support, deserves full funding at the authorized levels.

Protecting Civil Rights

The Department of Justice plays a vital role in keeping the country safe and secure, but the increased security needs required to protect America against terrorism are matched by increased demands for effective and prompt enforcement of our civil rights. After the September 11, 2001, terrorist attacks, the President spoke eloquently against racially, ethnically, and religiously motivated violence. We support an increase in funding for the Civil Rights Division and an increased focus on the core mission of the Division to safeguard civil rights, including the prosecution of hate crimes, deterrence of

the victimization of migrant workers, combating police misconduct, fighting housing and employment discrimination, eliminating discrimination against persons with disabilities, guarding voting rights, protecting victims of trafficking, and protecting fundamental opportunities.

We wish to note that the section of the Administration's Budget Message on the Department of Justice, "Focusing on the Nation's Priorities," does not mention the enforcement of the Nation's civil rights laws. DOJ's Civil Rights Division is the chief federal body charged with enforcing U.S. civil rights laws. Information available to Congress and in recent news reports underscores this decline in the number of traditional civil rights cases filed by the Division Administration, particularly in the important area of voting rights; a disturbing attrition of experienced attorneys from the Division, and an increasing diversion of the Division's resources to non-civil rights issues.

The proposed budget this year contains a significant decline in pending civil rights matters, showing 5,668 matters pending at the beginning of 2005, an estimated 5,502 in 2006, and 4,457 estimated in 2007. This compares with the FY 2005 budget which showed 9,678 pending matters at the beginning of 2003 and 8,860 estimated 2005 matters, compared to the 5,668 actually pending at the start of 2005. Thus in the beginning of 2007, there are about half the number of pending matters as there were at the beginning of 2003. This could have significant negative implications over time with respect to our civil rights laws.

Drug Courts

We commend and support the President's request for \$69,186,000 for the Drug Courts program, even though the authorized for appropriations level in the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) was \$70 million. Drug courts provide an important opportunity for communities to reduce drug abuse by providing incentives for low-level drug offenders to obtain effective treatment. Congress should support the program by restoring it to an appropriate funding level after the severe cuts the program experienced in FY 2005 and 2006.

Cybercrime

A recent report by the Department of Justice, Office of Inspector General found that identity theft, one of the most common forms of cybercrime, is a major concern among state and local law enforcement agencies. There is a critical need for the federal government to take a leading role in establishing a national strategy to combat identity theft. The internet challenges us because of how rapidly it changes the old way of doing things. In doing so, it can disturb the existing balance of legislation and regulation. It creates new markets while it threatens existing ones. It facilitates the protection of certain civil liberties, but it also gives new and powerful tools to those who would threaten those liberties.

In general, we have responded carefully and thoughtfully to those advances. We want to let new technologies reach their potential without prejudice. Often we have found that a new technology that seemed to change an entire sector of the economy actually required little or no new regulation. Only where absolutely necessary have we stepped in to regulate. Congress and the Administration must continue to work together to meet these new challenges while preserving the benefits of the new Internet era. We urge the Committee to fully fund any initiatives aimed at fighting cybercrime, particularly those undertaken by the electronic crimes task forces of the United States Secret Service.

Boys and Girls Clubs of America

The Administration calls for a \$25 million, or 30 percent, cut in Boys and Girls Clubs of America funding in the FY 2007 budget proposal, slashing it from \$85 million to \$60 million.

Across the nation, Boys and Girls Clubs are a proven and growing success in promoting leadership and supporting our children. Congress has authorized and appropriated a consistently rising level of funding for the Boys and Girls Clubs of America in recent years because of their proven role in discouraging youth gangs, drug abuse and youth violence. The President's budget reduces funding for Boys and Girls Clubs by \$25 million and completely ignores the five-year authorization for the Boys and Girls Club grant program enacted by Congress and signed by the President in October 2004. Public Law 108-344 authorizes Justice grants to the Boys and Girls Clubs of America to help establish 1,500 additional Boys and Girls Clubs across the nation with the goal of having 5,000 Boys and Girls Clubs in operation by January 1, 2011.

We therefore request that the Budget Committee continue strong support and provide for at least \$80 million for Boys and Girls Clubs within the DOJ budget for state and local law enforcement assistance.

Federal Bureau of Investigation (FBI)

While we support many of the increases in the FBI proposed budget, we remain concerned that some of these resources will not be used effectively and efficiently. The FBI's acknowledged failures in planning and managing a key component of an important information technology (IT) project – Trilogy – have resulted in the waste of \$170 million taxpayer dollars. Trilogy's successor, the Sentinel program, is already behind schedule and \$197 million has already been committed to this new IT program. This is unacceptable and we cannot countenance such misuse of taxpayer funds or that other important projects will likely suffer as a result. It is also unclear whether the FBI has taken the necessary steps to solidify its IT goals and plans for achieving them. We must ensure that the Department's technological capabilities keep pace. To do so requires an emphasis not just on providing funds, but also on effective use and implementation. We would hope that the latter will not be neglected.

Judicial Security

We are pleased to see that the Administration has taken the initiative to support Judicial Security in order to ensure the safety of judicial officials, courtroom participants, the public, and U.S. Marshals Service personnel. We believe that the budget should support efforts to increase protections not just for the federal judiciary, but for witnesses and victims of crime. We intend to continue working together to pass the "Court Security Improvement Act of 2005," S. 1968, which we jointly introduced. We are especially pleased to see that \$1 million has been requested to provide continued monitoring of alarm systems in judicial residences and we fully support this request.

Immigration and Border Security

We were pleased to see an increase in the budget for the Executive Office for Immigration Review (EOIR) of the Department of Justice, from \$211 million dollars in FY 2006 to \$227 million in the President's budget for FY 2007. EOIR funds the 52 immigration courts and the Board of Immigration Appeals. The EOIR has made modest progress toward reducing the backlog of immigration cases in recent years and an increase in funds may assist it in continuing this positive trend.

Heightened immigration enforcement activities pursued by the Department of Homeland Security have contributed to a sharp rise in immigration cases. By FY 2007, the caseload is expected to rise to 23,000 cases, or 155 cases per attorney in the Office of Immigration Litigation (OIL). Therefore, we support fully funding the President's request to increase litigators and support staff within the OIL.

Also, the President's budget contains \$4 million for additional personnel for the Law Enforcement Service Center of the Department of Homeland Security. These funds will be designated to provide assistance to state and local enforcement officials. We urge full funding of this important and highly regarded service. Finally, in light of the current crises surrounding illegal immigration and border security, we would like any border security initiatives to receive full funding.

Drug Enforcement Administration (DEA)

In the FY 2007 President's Budget there has been \$4.0 million requested to establish a National Security Section within the DEA's Intelligence Program to ensure standards and procedures for intelligence sharing. Because of the importance to provide all the agencies involved in combating crime within our country and abroad with the necessary resources and tools to share information and protect this Nation, we fully support the Administration's request.

Internet Crimes Against Children (ICAC) and AMBER Alerts

The ICAC program helps state and local law enforcement agencies develop an effective response to cyber enticement and child pornography cases. This help

encompasses forensic and investigative components, training and technical assistance, victim services, and community education. Numerous task forces have been established throughout the Nation. The President's Budget for FY 2007 requests \$15.4 million, over the FY 2006 enacted level of \$14.3 million, which we fully support.

The AMBER Alert program is a voluntary partnership between law enforcement agencies and broadcasters to activate an urgent public bulletin in the most serious child abduction cases. The Office of Justice Programs oversees activities targeted toward assisting state and local officials with developing and enhancing AMBER plans, and promoting statewide and regional coordination among plans. States and communities across the country are provided training and technical assistance to strengthen the AMBER Alert System. The President's Budget for FY 2007 requests \$5 million, over the FY 2006 enacted level of \$4.9 million, which we fully support.

Secret Service

Cyber and identity crime investigations conducted by the Secret Service are essential to protecting our Nation's financial and telecommunications infrastructure. We request that up to \$25.0 million be provided for financial infrastructure protection programs.

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

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

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

provide private industry and the public the ability to identify vulnerabilities and prevent or minimize future attacks.

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

Copyright Royalty Board (CRB) and the Copyright Royalty Judges

The Copyright Royalty and Distribution Reform Act replaced copyright arbitration royalty panels with a new Copyright Royalty Board (CRB), and provided as well for the appointment of three Copyright Royalty Judges to the CRB. Those three judges have recently been sworn into office. The CRB will take over the adjudication of royalty rates for compulsory licenses under the Copyright Act, conducting proceedings that, for example, set rates to be paid by entities ranging from cable companies to webcasters for their use of copyrighted content as they deliver video and music programming. The CRB is also involved in adjudicating disputes about how these payments are distributed to copyright holders.

Because the benefits of compulsory licensing flow almost exclusively to the licensees and the public, we believe the cost of administering the licenses should not be paid exclusively by the copyright holders. The law creating the CRB made clear that funding was to be made out of public funds and not out of the Copyright Office account (17 U.S.C. 803(e)(1)(B)). Thus, to implement that provision, we urge that the CRB receive full and mandatory funding, in order to permit this important work to be accomplished. Thus, the Committee would request that the budget resolution contain mandatory funding to fund the CRB at: \$1,300,000 for FY 2007; \$1,350,000 for FY 2008; \$1,400,000 for FY 2009; \$1,450,000 for FY2010 and \$1,500,000 for FY 2011. Note that mandatory funding for the CRB at \$1,300,000 per year for fiscal years 2006 through 2010 was passed by the full Senate late last year in section 8004 of S. 1932 but the provision was dropped in Conference. The allocation of funds by your Committee for this purpose would provide the funding needed for the Senate and the House to pass legislation based on the text of section 8004 (of S. 1932, as passed by the Senate) except with annual increases in funding of \$50,000 per year, starting with \$1,300,000 for FY 2007 (instead of starting in FY 2006); and ending in FY 2011.

The Federal Judicial System

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

is heavily influenced by national policies initiated in the Executive and Legislative Branches.

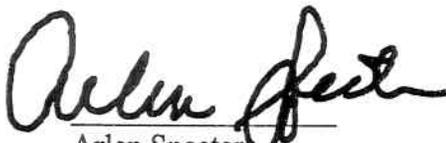
The Administration has requested an appropriation of \$6,260,494,000 for fiscal year 2007. These funds when combined with non-appropriated funds (such as fees) represent a 6.5 percent increase in overall available funding when compared to the previous fiscal year. The requested appropriation will allow the Judiciary to restore the staff lost during the course of fiscal years 2004 and 2005 and will provide some additional resources to address workload growth resulting primarily from increased immigration enforcement efforts. Appellate, criminal, bankruptcy, probation and pretrial services caseloads have all seen double digit increases since fiscal year 2000, yet over that same period funded court staff levels have declined 4 percent. Filings of criminal cases increased 12 percent. The courts had over 113,000 felons under supervised release, and filings in the courts of appeals increased 22 percent.

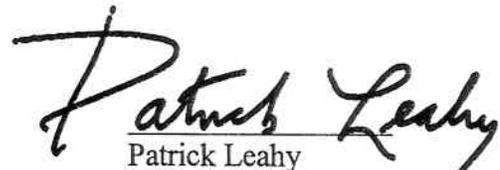
In fiscal year 2004, due to budget constraints, the Judiciary was forced to reduce its staffing levels by 1,350 position. This equates to six percent of the staff in the clerks, probation and pretrial services offices that were on-board at the beginning of fiscal year 2004. In fiscal year 2005, additional positions were left vacant due to the uncertainty surrounding the fiscal year 2006 congressional budget outlook. The financial outlook for the courts was markedly improved in fiscal year 2006, and it is critical that this continue. Therefore, we support the Administration's request that the Judiciary receive its full funding request in fiscal year 2007.

* * * * *

Thank you again for allowing us to share our views and estimates for FY 2007. We look forward to working closely with you on this matter and other issues.

Sincerely,


Arlen Specter
Chairman


Patrick Leahy
Ranking Member