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SCIENCE, AND RELATED  
AGENCIES APPROPRIATIONS FOR 2017



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HEARINGS

BEFORE A

SUBCOMMITTEE OF THE  
COMMITTEE ON APPROPRIATIONS  
HOUSE OF REPRESENTATIVES  
ONE HUNDRED FOURTEENTH CONGRESS  
SECOND SESSION

SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED  
AGENCIES

**JOHN ABNEY CULBERSON, Texas, *Chairman***

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JOHN R. CARTER, Texas  
JAIME HERRERA BEUTLER, Washington  
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STEVEN M. PALAZZO, Mississippi

CHAKA FATTAH, Pennsylvania  
MICHAEL M. HONDA, California  
JOSE E. SERRANO, New York  
DEREK KILMER, Washington

NOTE: Under Committee Rules, Mr. Rogers, as Chairman of the Full Committee, and Mrs. Lowey, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

JOHN MARTENS, JEFF ASHFORD, LESLIE ALBRIGHT,  
COLIN SAMPLES, ASCHLEY SCHILLER, and TAYLOR KELLY  
*Subcommittee Staff*

PART 2A

DEPARTMENT OF JUSTICE

Justification of the Budget Estimates



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# COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR 2017

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## HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTEENTH CONGRESS SECOND SESSION

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### SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

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### PART 2A

#### DEPARTMENT OF JUSTICE

#### Justification of the Budget Estimates



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Department  
of  
Justice  
FY 2017  
Budget  
Submission  
Part 2A



**U.S. Department of Justice**  
**FY 2017 PERFORMANCE BUDGET**  
**Congressional Justification**  
**Justice Information Sharing Technology**



## Table of Contents

	Page No.
<b>I. Overview.....</b>	3
<b>II. Summary of Program Changes.....</b>	4
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	5
<b>IV. Program Activity Justification</b>	
A. Justice Information Sharing Technology	
1. Program Description.....	6
2. Performance Tables.....	13
3. Performance, Resource, and Strategies.....	15
<b>V. Program Increase</b>	
A. Justice Security Operations Center (JSOC). ....	21
B. Identity, Credential, and Access Management (ICAM).....	24
C. Information Security Continuous Monitoring (ISCM) .....	27
D. Insider Threat Prevention and Detection Program (ITPDP).....	30
<b>VI. Exhibits</b>	
A. Organizational Chart (not applicable)	
B. Summary of Requirements	
C. FY 2017 Program Changes by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports and Evaluations (not required )	
M. Modular Costs for New Positions	



## I. Overview

The FY 2017 Justice Information Sharing Technology (JIST) request totals \$57,561,000 and includes 45 authorized positions. JIST traditionally has funded the Department of Justice's enterprise investments in information technology (IT). This FY 2017 submission also significantly enhances the OCIO's cybersecurity program. The existing environment of escalating cyberattacks, particularly against strategic government targets similar to the 2015 OPM attack, insider threats, and the need for continuous systems monitoring, especially on mission-essential systems, necessitates cyber-related investment enhancements. The sums requested for cybersecurity in this budget request represent an overall net increase to the FY 2017 JIST account, and builds on critical investments in cybersecurity executed in FY 2015 and planned for FY 2016.

As a centralized fund under the control of the Department of Justice Chief Information Officer (DOJ CIO), the JIST account ensures that investments in IT systems, cybersecurity, and information sharing technology are well planned and aligned with the Department's overall IT strategy and enterprise architecture. CIO oversight of the Department's IT environments is critical, given the level of staff dependence on the IT infrastructure and security environments necessary to conduct legal, investigative, and administrative functions.

In FY 2017, the JIST appropriation will fund the DOJ CIO's continuing efforts to transform IT enterprise infrastructure and cybersecurity. These efforts include resources for the Office of the CIO's responsibilities under the Clinger-Cohen Act of 1996 and more recently resources to perform financial management and reporting and IT program management responsibilities directed by the Federal Information Technology Acquisition Reform Act (FITARA; P.L. 113-291). JIST will fund investments in IT infrastructure, cybersecurity infrastructure and applications that support the overall mission of the Department and contribute to the achievement of DOJ strategic goals. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed at: <http://www.justice.gov/02organizations/bpp.html>.

DOJ will continue its savings reinvestment strategy, enacted in the FY 2014 budget, which will support Department-wide IT initiatives. As a result, up to \$35,400,000 from Components may be reprogrammed in FY 2017 and will be available until expended to augment JIST resources to advance initiatives that transform IT enterprise infrastructure and cybersecurity across the Department.



## II. Summary of Program Changes

Item Name	Description	Pos.	FTE	Dollars (\$000)	Page
Cybersecurity	1. Justice Security Operations Center (JSOC)			\$9,240	21
	2. Identity, Credential, and Access Management (ICAM)			\$6,600	24
	3. Information Security Continuous Monitoring (ISCM)			\$6,600	27
	4. Insider Threat Prevention and Detection Program (ITPDP)			\$4,000	30
<b>Total</b>				<b>\$26,440</b>	



### **III. Appropriations Language and Analysis of Appropriations Language**

#### **Appropriations Language**

For necessary expenses for information sharing technology, including planning, development, deployment and departmental direction, \$57,561,000 to remain available until expended: *Provided*, That the Attorney General may transfer up to \$35,400,000 to this account from funds made available to the Department of Justice in this Act for information technology, to remain available until expended, for enterprise-wide information technology initiatives: *Provided further*, That the transfer authority in the preceding proviso is in addition to any other transfer authority contained in this Act.

#### **Analysis of Appropriations Language**

No substantive changes proposed.

#### **General Provision Language**

[Sec. 209. None of the funds made available under this title shall be obligated or expended for any new or enhanced information technology program having total estimated development costs in excess of \$100,000,000, unless the Deputy Attorney General and the Department Investment Review Board certify to the Committees on Appropriations of the House of Representatives and the Senate that the information technology program has appropriate program management controls and contractor oversight mechanisms in place, and that the program is compatible with the enterprise architecture of the Department of Justice.]

#### **Analysis of Appropriations Language**

This provision is no longer required due to the recent IT management controls included in the FITARA legislation, which provide for an inclusive governance process that enables effective planning, budgeting and execution for IT investments at the Department's senior leadership levels.



#### IV. Program Activity Justification

##### A. Justice Information Sharing Technology – (JIST)

JIST	Direct Pos	Estimate FTE	Amount (\$000)
2015 Enacted	45	35	25,842
2016 President's Budget	45	45	31,000
Adjustments to Base			121
2017 Current Services	45	45	31,121
2017 Program Increases	0	0	26,440
2017 Request	45	45	57,561
Total Change 2016-2017	0	0	26,561

##### 1. Program Description

JIST-funded programs support progress toward the Department's strategic goals by funding the Office of the CIO, which is responsible for the management and oversight of the Department's IT portfolio. The JIST appropriation supports the daily OCIO IT-related activities relied upon by the Department's agents, attorneys, analysts, and administrative staff, and funds the following programs: cybersecurity; enterprise-wide, cost-effective IT infrastructure; Digital Services, and information sharing technologies.

##### a. Cybersecurity (Cross Agency Priority Goal)

Enhancing cybersecurity remains a top priority for the Department and its leadership as DOJ supports a wide range of missions that include National Security, law enforcement, prosecution, and incarceration. For each of these critical missions, the systems that support them must be secured to protect the confidentiality of sensitive information, the availability of data and workflows crucial to mission execution, and the integrity of data guiding critical decision-making. DOJ's cybersecurity investments directly support the President's Cross Agency Priority (CAP) Goal for cybersecurity that remains a top initiative reflected in the Administration's FY 2017 budget guidance.

The Department of Justice's Cybersecurity Services Staff (CSS) currently provides enterprise-level strategic security management, policy development, technology enhancements and solutions, and monitoring capabilities across the enterprise. While CSS continues to improve these activities; service personnel, hardware, and software costs have consistently risen, workload for current responsibilities has increased, threats to our systems have sky rocketed, many enterprise cybersecurity tools have reached end of life, and CSS has taken on new missions (e.g., Supply Chain and Insider Threat Prevention). The confluence of these responsibilities creates a situation whereby CSS, while mature in many aspects of cybersecurity, cannot adequately address the requirements of today's dynamic threat environment without significant investments beyond the current funding baseline. The enhancements requested in this budget address the oversight role of



both DOJ and CSS, but does not cover the Component-level network security management, which is funded through the Component's annual budget.

The major lines of operations within CSS include the Justice Security Operations Center; Identity, Credential, and Access Management (ICAM); Information Security Continuous Monitoring; and Insider Threat Prevention and Detection.

- **Justice Security Operations Center**

The Justice Security Operations Center (JSOC) provides 24x7 monitoring of the Department's internet gateways and incident response management. In its monitoring function, DOJ continues to add new systems and new technologies to DOJ networks that require modern protection with capabilities for combatting the latest attack technologies used by adversaries. Concurrent with the increasing tempo of cyber-attack activities, paradigm shifts in IT, such as cloud computing and ubiquitous mobility, are placing increased emphasis on cybersecurity outside the traditional enterprise boundary. As DOJ embraces these new technological frontiers, CSS must ensure that they can be adopted and deployed in a secure fashion that supports the DOJ and component missions, while safeguarding the Department's data.

The Department needs infrastructure investments to modernize how incident response is handled across our geographically-dispersed DOJ footprint, and adapt to the changing technological landscape associated with cloud and mobility. Much of the Department's significant cybersecurity investments occurred several years back. Today, the JSOC's effectiveness is stunted by aged infrastructure, some of which is past end-of-life and less supportable.

- **Identity, Credential, and Access Management (ICAM)/Strong Authentication (Including Public Key Infrastructure/HSPD-12)**

The role of the Identity, Credential, and Access Management (ICAM) program is to establish a trusted identity for every DOJ user along with the access controls necessary to ensure that the right user is accessing the right resources at the right time. This program provides the planning, training, operational support, and oversight of HSPD-12 Personal Identification Verification card (PIVCard) deployment, and operates the ongoing centralized system for DOJ component employees and contractors. Looking forward, this program will have to address the authentication of mobile users and devices, network devices such as routers, switches, and printers/scanners, those privileged users with increased access and ability, and the broadening scope of cloud technology.

The Department does not currently manage the issuance of digital certificates which act as "keys" to the systems. DOJ PIV certificates are currently issued through the GSA USAccess Program: <http://www.gsa.gov/portal/category/27240>. The Department seeks to invest in building out the capability to centrally manage (i.e. issue, scan, secure, and revoke) all digital certificates required for use on DOJ systems. This capability will also provide system owners with an automated mechanism to obtain trusted certificates from a central



location. Without a trusted central certificate authority, the Department has no way of knowing where its keys are and who is using them. Should attackers leverage a stolen certificate, they potentially could have unfettered access to Department systems and remain hidden from current JSOC sensors. As more systems move to the cloud and encryption becomes pervasive within the DOJ network, the Department must ensure that system owners are using trusted certificates and have a mechanism in place for detection when these certificates may become compromised.

- **Information Security and Continuous Monitoring**

The Information Security Continuous Monitoring (ISCM) program brings together the security technology tools for continuous diagnostics, mitigation, and reporting with the personnel to support the Federal Information Security Modernization Act (FISMA) system security authorization and implementation of cyber internal controls across the DOJ components. The ISCM program leverages enterprise-wide solutions for automated asset management, configuration, and vulnerability management; tools for scanning networks and systems for anomalies; endpoint encryption for secure workstations and data in-transit; and dashboard reporting for executive awareness and risk-based decision-making in near real-time. ISCM policy analysts fuse this system control assessment data with vulnerability and incident data to provide continuous and dynamic visibility into security posture changes that impact risks to the Department's missions.

- **Insider Threat Program**

The DOJ Insider Threat Prevention and Detection Program (ITPDP) is responsible for protecting sensitive and classified information and resources from misuse, theft, unauthorized disclosure, or espionage by insiders. The DOJ Insider Threat Program was established under Executive Order 13587 directing Executive Branch departments and agencies to establish, implement, monitor, and report on the effectiveness of insider threat programs. The ITPDP is integrated with DOJ Security and Emergency Planning Staff (SEPS) efforts to implement Insider Threat and Security, Suitability, and Credentialing Reform (ITSCR) throughout the Department.

In order to achieve the intent of the Insider Threat Full Operating Capability Goal, DOJ must have the capacity to detect patterns and correlated indicators across multiple types of information (e.g., human resources, information assurance, security, and counterintelligence). Having this capacity can lead to preventing (or mitigating) threats and adverse risks to the security of the United States. Building on FY 2015 and planned FY 2016 cyber-related expenditures, FY 2017 JIST funding provides capabilities for Continuous Monitoring of user activity on Department IT systems and building a Department hub to centralize information on user activity. The ITPDP will also exchange data with the ITSCR initiatives to inform insider threat analysis and investigations. This investment will enable the Department to conduct proactive behavior analysis and detection of suspicious activities in near real time, providing assurance that system users are performing valid work-related activities.



## **b. IT Transformation**

The IT Transformation (ITT) Program is a long-term, multiyear commitment that aims to transform IT by implementing shared IT infrastructure for the Department and shifting investments to the most efficient computing platforms, including shared services and next generation storage, hosting, networking, and facilities. The ITT Program directly supports the Federal CIO's 25 Point Plan to Reform Federal IT Management and the Portfolio Stat (PSTAT) process, and aligns the Department's IT operations with the Federal Data Center Consolidation and Shared First initiatives. Work on these initiatives began in FY 2012 and continues into FY 2017 and beyond. The program consists of the following projects: e-mail consolidation, data center consolidation, mobility and remote access, and desktops.

## **c. Law Enforcement Information Sharing Program**

The Law Enforcement Information Sharing Program (LEISP) represents a strategic approach to sharing data with other DOJ components, other federal agencies, and partners at the state, local, and tribal levels. LEISP-related database application systems enable state, local, and federal law enforcement agencies nationwide to collect, share, and analyze law enforcement information on criminal activities. LEISP develops and promotes information sharing architectural standards and services for connecting ongoing projects within key DOJ components, under a common set of goals and objectives, and ensures compliance with applicable DOJ policies and memoranda that include, but are not limited to: data sharing, privacy, and technologies. Most recently, the Department has committed its support and in FY 2016 will begin provisioning kiosks to participating Tribal law enforcement entities to enable critical information to be shared in an effort to combat crime committed on Tribal lands.

## **d. Policy, Planning and Oversight**

**Office of the CIO - DOJ IT Management:** JIST funds the Office of the CIO and the Policy & Planning Staff (PPS), which supports CIO management in complying with the Clinger-Cohen Act, the Federal Information Technology Acquisition Reform Act, and other applicable laws, rules, and regulations for federal information resource management. The CIO has staff providing IT services funded through the Department's Working Capital Fund (WCF). As such, the OCIO is responsible for ensuring the delivery of services to customers, developing operating plans and rate structures, producing customer billings, and conducting the day-to-day management responsibilities of the OCIO. Within OCIO, PPS develops, implements, and oversees an integrated approach for effectively and efficiently planning and managing DOJ's information technology resources, including the creation of operational plans for the JIST and WCF accounts, and monitoring the execution of funds against those plans.

- **CIO Role in the Budget Process under FITARA**

DOJ IRM Program Order 2880.1C and implementing instructions, including DOJ IT Governance Guide, and annual agency budget planning memoranda from the Attorney



General, Assistant Attorney General for Administration, and the Chief Information Officer define:

- IT program reporting and review policy, processes, and procedures. Specific reporting instructions and detail are published for each budget planning cycle.
- The authority and the Department CIO participation in budget planning, review, and approval. IT resource planning, reporting, and review instructions are included in the CFO's overall budget planning process instructions, which are published each year and are coordinated with the formal Spring Call budget formulation process.
- The Department CIO's participation in the agency level budget planning, review, and approval processes, as part of his responsibility to advise the Attorney General and other leaders on the use of IT to enhance mission accomplishment, process improvement, and ensure information security.

The Department CIO reviews and approves the resource plans for major IT investments as part of the IT capital planning process. The CIO endorses the agency budget request for FY 2017. CIO participation in budget planning, review, and approval for major IT programs is defined in agency budget planning guidance, policy, and process descriptions.

#### • **FITARA Implementation**

The Office of the CIO formed a Tiger Team composed of senior IT leaders and managers from across the Department to assess DOJ's alignment with the requirements outlined in OMB Memo M-15-14, Management and Oversight of Federal Information Technology, Attachment A, Common Baseline. The Tiger Team's findings were approved and submitted to OMB citing specific evidence of alignment with all but 5 elements of the Common Baseline.

The Tiger Team prepared and submitted for approval an implementation plan with these primary objectives:

1. Develop and implement policy, processes and procedures to meet the requirements outlined in the Common Baseline where the DOJ has not implemented the stated requirements.
2. Modify as necessary existing policy, processes and procedures to meet the requirements outlined in the Common Baseline where the DOJ has partially implemented the stated requirements.

Elements of this plan were to be completed and fully implemented by December 31, 2015 and include:

- CIO role on program governance boards.
- Shared acquisition and procurement responsibilities between CIO and SPE
- CIO review and approval of acquisition strategy and acquisition plan



- CIO approval of reprogramming
- CIO role in ongoing bureau CIOs' evaluations

PPS is responsible for IT investment management including portfolio, program and project management. The investment management team manages the Department's IT investment and budget planning processes; develops and maintains the Department's general IT program policy and guidance documents; and coordinates the activities of the Department IT Investment Review Board (DIRB), the CIO Council, and the Department Investment Review Council (DIRC). Other responsibilities include managing the Department's Paperwork Reduction Act program, coordinating IT program audits, and ensuring IT program compliance with records management, accessibility (508), and other statutory requirements. In addition, PPS performs reviews to examine planned IT acquisitions and procurements to ensure alignment with the Department's IT strategies, policies, and its enterprise road map. The Office of Management and Budget has formally approved the Department's FITARA implementation plan.

#### **e. Enterprise IT Architecture**

Enterprise Architecture (EA) leverages component-based EA programs and IT Investment Management (ITIM) programs, to create a Federated EA. EA provides high-level guidance on architectural issues and provides a central point for aggregating and reporting on activities from across components. EA monitors and ensures compliance with OMB and Government Accountability Office (GAO) enterprise architecture requirements. EA participates in a wide range of IT planning, governance and oversight processes at the Departmental level, such as the ITIM and Capital Planning and Investment Control (CPIC) processes, as well as participating in review boards and IT planning Initiatives. This interaction allows OCIO to review IT investments for enterprise architecture alignment and to collect specific IT information during the ITIM process. EA documents the DOJ IT Portfolio within an enterprise architecture repository. The enterprise architecture repository contains information on all departmental systems and provides supporting information to Departmental Initiatives and maintains the Department's IT Asset Inventory in compliance with OMB Circular A-130. Additionally, EA represents the Department's components in cross-government EA forums and with oversight agencies, and assists DOJ IT planning and strategic efforts including, but not limited to, Information Sharing, Investment Review, and Open Data.

#### **f. Chief Technology Officer**

The Chief Technology Officer (CTO) identifies, evaluates, and facilitates the adoption of innovative new technologies that can result in significantly increased value for the Department. A key objective of the CTO is to create partnerships with DOJ components in the exploration of new technologies by progressing through requirements, concepts, design, component sponsorships, and prototyping that eventually results in enhanced operational systems that support the mission and can be used across the Department.

#### **g. Enterprise Radio Communications (Program Office)**



The OCIO maintains oversight and strategic planning responsibility for DOJ's use of spectrum for tactical wireless and related technologies that enable radio and other wireless communications in support of DOJ's law enforcement and investigative missions. JIST-funded OCIO staff is responsible for performing the following functions for the Department's radio/wireless program:

- **Strategic Planning:** OCIO staff works with DOJ's law enforcement components and represents the Department with the National Telecommunication and Information Administration (NTIA), the White House, and other external entities on issues related to spectrum auctions, and the resulting impact to DOJ operations. Staff advises on spectrum relocation and related wireless topics, including the Public Safety Broadband Network (PSBN) and FirstNet. Staff also develops common wireless strategies for the Department, and coordinates procurements, platform sharing, and technical innovations.
- **Spectrum Management:** Staff serves as the Departmental representative to the NTIA and other federal agencies to coordinate all national and international radio frequency (RF) spectrum use on behalf of DOJ.

The coordination of spectrum use includes evaluating thousands of spectrum use requests by other agencies for potential impact on DOJ operations, selecting appropriate frequencies for the domestic and foreign deployment of RF equipment during peacetime and emergency situations, as well as reviewing and updating the approximately 22,000 DOJ-wide frequency assignments and reviewing plans for spectrum relocation as a result of spectrum auctions. The staff will provide guidance and oversight for the procurement of spectrum dependent systems by obtaining certifications of spectrum support from NTIA, Department of Commerce. This process ensures that radio frequencies can be made available prior to the development or procurement of major radio spectrum-dependent systems required to meet mission/operational requirements. NTIA may also review the economic analyses of alternative systems/solutions at any point in the NTIA authorization processes.

- **Spectrum Relocation:** Staff works with leadership, DOJ Budget Staff, and interagency partners (OMB, NTIA), to effectively transition law enforcement wireless capabilities from auctioned radio spectrum to other spectrum bands. A key part of this effort is the Spectrum Relocation Office, which provides oversight of auction proceeds used to vacate spectrum and re-build affected wireless capabilities.
- **Oversight/Liaison/Coordination:** Staff provides oversight and investment guidance on the Department's wireless communications efforts, ensuring equities are maintained and that strategic objectives are met through the administration of the Wireless Communications Board (WCB).



## 2. Performance Tables

PERFORMANCE AND RESOURCES TABLE									
Decision Unit: JMD/OCIO/Justice Information Sharing Technology (JIST)									
DOJ Strategic Goal/Objective: 2.6 Protect the federal fisc and defend the interests of the United States									
RESOURCES		Target	Actual	Projected		Changes		Requested (Total)	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FY 2015	FY 2015	FY 2016		Current Services Adjustments and FY 2017 Program Change		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		45	25,842 [4,636]	45	31,000 [9,892]	0	26,561 [178]	45	57,561 [10,070]
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE _	FY 2015	FY 2015	FY 2016		Current Services Adjustments and FY 2017 Program Change		FY 2017	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		45	25,842 [4,636]	45	31,000 [9,892]	0	26,561 [178]	45	57,561 [10,070]
Performance Measure	Percentage of offenders booked through JABS	100%	100%	100%		N/A		100%	
Performance Measure	Maintain mainframe enterprise system availability for client organizations	99%	100%	99%		N/A		99%	
Performance Measure	Maintain JMD/SMO/ICON system availability for client organizations	99%	100%	99%		N/A		99%	
Performance Measure	Ensure IT systems are certified and accredited	100%	100%	100%		N/A		100%	
Performance Measure	Ensure IT help desk calls are answered and resolved within service level agreement terms	85%	85%	85%		N/A		85%	



PERFORMANCE MEASURE TABLE									
Decision Unit: JMD/OCIO/Justice Information Sharing Technology (JIST)									
DOJ Strategic Goal/Objective: 2.6 Protect the federal fisc and defend the interests of the United States									
Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY2015		FY 2016	FY 2017
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure	Percentage of offenders booked through JABS	98%	99%	100%	100%	100%	100%	100%	100%
Performance Measure	Maintain mainframe enterprise system availability for client organizations	100%	100%	100%	100%	99%	100%	99%	99%
Performance Measure	Maintain JMD/SMO JCON system availability for client organizations	99%	99%	99%	99%	99%	99%	99%	99%
Performance Measure	Ensure IT systems are certified and accredited	100%	100%	100%	100%	100%	100%	100%	100%
Performance Measure	Ensure IT help desk calls are answered and resolved within service level agreement terms	90%	86%	85%	85%	85%	85%	85%	85%



### 3. Performance, Resources, and Strategies

#### a. Performance Plan and Report for Outcomes

JIST-funded programs support the Strategic Plan for Information Services and Technology (FYs 2015 – 2018) that, at its core, seeks to advance, protect, and serve the mission. Programs funded through JIST also support the Department's Strategic Goals by providing enterprise IT infrastructure and security environments necessary to conduct national security, legal, investigative, and administrative functions. Specifically, JIST supports Strategic Objective 2.6: *Protect the federal fisc and defend the interests of the United States*. The FY 2014 – FY 2018 Strategic Goals are:

- Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law.
- Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.
- Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels.

The JIST account provides resources so that OCIO can ensure that investments in IT infrastructure, cybersecurity infrastructure and applications, central solutions for commodity applications, and information sharing technologies are well planned and aligned with the Department's overall IT strategy and enterprise architecture. The Portfolio Stat (PSTAT) process, along with the commodity team structure and process, has identified investment initiatives to transform IT infrastructure which will drive efficiency and cost savings by centralizing the delivery of commodity IT services across the enterprise. The DOJ CIO focus is to advance these initiatives to transform IT enterprise law enforcement infrastructure and cybersecurity requirements.

Major IT investments are periodically reviewed by the Department IT Investment Review Board (DIRB). The Deputy Attorney General chairs the board, and the DOJ CIO serves as vice chair. The DIRB includes the Assistant Attorney General for Administration, the Department's Controller, and various IT executives representing key DOJ components.

The DIRB provides the highest level of investment oversight as part of the Department's overall IT investment management process. The Department's IT investments are vetted annually through the budget submission process, in conjunction with each component's Information Technology Investment Management (ITIM) process. The DIRB's principal functions in fulfilling its decision-making responsibilities are to:

- Ensure compliance with the Clinger-Cohen Act, the Federal Information Technology Acquisition Reform Act, and all other applicable laws, rules, and regulations regarding information resources management;



- Monitor the Department's most important IT investments throughout their project lifecycle to ensure goals are met and the expected returns on investments are achieved;
- Ensure that each project under review has established effective budget, schedule, operational, performance, and security metrics that support the achievement of key project milestones;
- Review the recommendations and issues raised by the components' IT investment management process;
- Annually review each component's IT investment portfolio, including business cases for new investments, to enable informed departmental IT portfolio decisions; and
- Develop and implement decision-making processes that are consistent with the purposes of the DIRB, as well as applicable congressional and OMB guidelines for selecting, monitoring, and evaluating information systems investments.

In addition to the DIRB, the Deputy Attorney General in October 2014 established the Department Investment Review Council (DIRC), which is made up of key Department level and component executives that will monitor and support major and high visibility IT projects and services, as well as evaluate IT budget enhancement requests, among other responsibilities. The DIRC directly supports the responsibilities of the DIRB, and its governance structure addresses key IT management tenets included in FITARA. The Department contributes to the Federal IT Dashboard that allows management to review various aspects of major initiatives. The Dashboard includes Earned Value Management System (EVMS) reporting to ensure projects are evaluated against acceptable variances for scope, schedule, and costs. Risk analysis and project funding information are also available in this tool. This allows the Department's CIO and senior management team to have timely access to project information.

JIST provides resources for the executive secretariat functions of the DOJ CIO Council, the principal internal Department forum for addressing DOJ information resource management priorities, policies, and practices. JIST resources also operate the DOJ IT Intake process through which commodity IT planned acquisitions are reviewed against architectural, procurement, and vendor management standards.

In FY 2014 the Department established a Vendor Management Office (VMO), which provides centralized guidance and prioritization for the Department's decentralized strategic sourcing efforts. The VMO's Program Managers and Attorney Advisors bring together a wide range of experience and expertise, which has been instrumental in negotiating enterprise deals, facilitating the resolution of contractual disputes, coordinating, and consolidating component-led efforts and providing comprehensive management for JMD's Department-wide contracts. In order to stay current on new technology and industry best practices, the VMO maintains open and continuous communication with public and private technical and acquisition communities and disseminates findings in VMO-lead monthly meetings with cross-component participation. The VMO also drafts and revises IT acquisition policy and strategy and is currently creating a repository of samples, templates and guides for each step of the IT acquisition process.



## b. Strategies to Accomplish Outcomes

Specific mission critical IT infrastructure investments are designed, engineered, and deployed with JIST resources.

- The Cybersecurity program is a long-term investment that has grown in importance over the past several years, notably during FY 2015. Enhancing mission-focused cybersecurity has become a top priority for the President, DOJ, and its leadership. The program consists of four main focus areas:
  1. **Justice Security Operations Center (JSOC):** The 24x7 JSOC provides cyber defense capabilities at the Internet gateway of the Department's network. The JSOC will implement tools and employ resources to reduce time between intrusion detection and response through the following actions: 1) strengthen the network against external and internal threats; 2) expand forensic analysis and capability; and 3) automate incident response.
  2. **Identity, Credential, and Access Management (ICAM):** This program ensures that users are identified properly and granted access only to information resources necessary to perform their job. ICAM efforts will implement a DOJ certificate lifecycle management system, resulting in a more secure enterprise by reducing the opportunity for identity fraud and increasing the safety of both government information and personal privacy.
  3. **Information System Continuous Monitoring (ISCM):** ISCM will improve the visibility into the security health of the organization through two major initiatives: (1) supporting, monitoring, and reporting on system and network security hygiene, including mission essential systems and user activity; and (2) providing subject matter expertise to support DOJ components and organizations in their efforts to properly secure systems.
  4. **DOJ's Insider Threat Prevention and Detection Program:** The ITPDP will implement the tools to perform user activity monitoring and establish the Department's insider threat hub. As a result, the insider threat risks on sensitive and classified information systems will be reduced and the DOJ will have a capability to prevent, detect, and respond to insider threats
- **IT Transformation** is a long-term, multi-year commitment to transform the Department's IT enterprise infrastructure centralizing commodity IT services. Work on this program began in FY 2012 and continues. The program currently consists of the following projects:
  1. **Enterprise E-mail Consolidation:** Departmental email consolidation is a long-term, multi-year effort that began in FY 2012 with the consolidation of small email systems and the planning activities for a Department-wide email system. The initial phase of this project reduced the number of departmental, non-



classified email systems from 22 to 9 at the end of FY 2014. In addition, new and enhanced collaboration functionality was introduced to participating components during FY 2015. The long-term goal is to reduce the number of email systems and provide enhanced enterprise messaging tools for all Department users. In FY 2016, DOJ plans to consolidate additional components under an enterprise email solution Cloud Service Provider (CSP) model in order to further gain efficiencies and strategic value. The design, implementation, and migration to the cloud are projected to occur in FY 2017-2019.

2. **Data Center Consolidation:** The goals of this project are to optimize and standardize IT infrastructure to improve operational efficiencies and agility; reduce the energy and real property footprint of DOJ's data center facilities; optimize the use of IT staff and labor resources supporting DOJ missions; and enhance DOJ's IT security posture. These goals will be achieved by reducing the number of DOJ data centers to three core data centers; leveraging cloud and commodity IT services; and migrating data processing to these locations and services with appropriate service agreements. DOJ has identified two FBI owned data centers and one DEA leased data center as facilities that will serve as DOJ Core Enterprise Facilities (CEF). The Department has closed 66 data centers since 2010, and the Justice Data Center in Dallas was shuttered during FY 2015. Planning activities to close 8 additional data centers by the end of FY 2016 and 7 more in FY 2017 are underway.
3. **Mobile Services:** The long term goal for mobile services is to enable employees to work outside of the office just as effectively as they would at their desk. With the dynamic nature of smartphone capabilities, the DOJ Mobile Services team was established in FY 2013 and collaborates across components on mobility initiatives to implement enterprise shared services. Key accomplishments to date include detailed security guidance for the major mobility platforms as well as the implementation of a shared mobile device management (MDM) platform which manages the mobile devices for 15 components. DOJ also initiated a mobile app program by converting Justice.gov to a mobile-friendly platform and released the first custom mobile app to the public to support the Office of Attorney Recruitment and Management.

Planned for FYs 2016 and 2017, the Department will expand mobility service with productivity tools and apps to provide users an enhanced experience with increasingly secure remote access to DOJ data. The DOJ App Catalog will be expanded to provide additional access to commercially available applications as well as new internally-developed apps. Other enhancements will focus on collaboration tools for remote meetings, enterprise file management for improved information sharing, Enterprise Wi-Fi, derived PIV integration to replace the need for multiple passwords, as well as emerging technologies.



4. **Enterprise Desktop:** The enterprise desktop area is converging with mobile devices, and the leading desktop vendors are rapidly introducing new laptop and tablet solutions which can significantly enhance the user experience while at the office or working remotely. The key goals of this project are to provide a common user experience regardless of the device one is using, and also to expand the set of available device options in order to better fit the need of the user. Several components are planning JCON workstation refreshes for FYs 2016 and 2017 so the Enterprise Desktop team will continue to work closely with components to re-use these common solutions and standards across groups.
- **The Law Enforcement Information Sharing Program (LEISP)** represents a strategic approach to sharing data with other DOJ components, other federal agencies, and partners at the state, local, and tribal levels. LEISP-related database application systems enable state, local, and federal law enforcement agencies nationwide to collect, share, and analyze law enforcement information on criminal activities.
  - **The Digital Transformation team** is responsible for driving the efficiency and effectiveness of the agency's highest-impact digital services. It will coordinate with U.S. Digital Service (USDS), which was launched in August 2014. The USDS's main goal is to institutionalize digital competencies and apply it to government work to avoid incidents, such as the challenges seen during the role-out of Healthcare.gov, by setting standards, introducing a culture of technological accountability, and assessing common technology patterns that can be replicated across agencies.

The Department continues to engage the U.S. Digital Service, most recently facilitating the review of the FBI's National Instant Criminal Background Check System (NICS) and a discussion toward a decision point on the program's way forward. The Department has embraced the concept of the U.S. Digital Service (USDS) and continues to evaluate programs through its governance role assessing what, if any, information technology initiatives or programs may be served best by introducing a Digital Service Team. The current IT environment across the Department is focusing principally on securing deployed assets buffering them from cyber-attacks, and addressing high-risk legacy systems and networks, leaving little funding for true IT initiative development and modernization on which Digital Service teams might take an active participatory role.

We have coordinated with the U.S. Digital Service leveraging the associated Schedule A hiring authority bringing in to the Department's OCIO, private sector expertise that is helping to progress the IT transformation effort underway within OCIO. These Information Technology Distinguished Fellows (IT Fellows) are being actively recruited to leverage their specific skill sets needed to truly transform the OCIO to a service broker model. In FY16 we are allocating vacancies and associated expenses to bring aboard IT Fellows, all of whom will report directly to the Department's Chief Technology Officer. These are term positions that will come in and address critical risks and issues, much as in the same way as proffered under the U.S. Digital Service, but on IT initiatives not necessarily requiring rescue, which is the true value of USDS. In FY17, the OCIO will



continue to devote position vacancies and resources to address critical risks and issues. The Department will continue closely coordinating with OMB and USDS, and through the IT governance structure, any IT programs requiring specific attention will be promptly assessed and USDS will be engaged thereafter, should the need arise.

- **Cyber-Space-** The DOJ will coordinate with Networking and Information Technology Research (NITRD) and Office of Science and Technology (OSTP) to drive research guided by the White House's "Trustworthy Cyberspace: Strategic Plan for the Federal Cybersecurity Research and Development Program". With the perspective of the Department's unique mission requirements, DOJ will perform research to understand the root cause of existing cybersecurity deficiencies; minimize future cybersecurity problems by developing the science of security; coordinate, collaborate, and integrate this research across the Government; and expedite the transition of cybersecurity research to practice.
- **Collaboration and Innovations with partnering agencies and private sector-** DOJ, with the FBI, will continue to work with industry, and partnering agencies, to learn and share strategies to provide insights into our critical mission needs. The Department of Justice will support the National Strategic Computing Initiative to maximize the benefits of High Performance Computing for economic competitiveness and scientific discovery. As investments in High Performance Computing has contributed substantially to national economic prosperity and rapidly accelerated scientific discovery, DOJ is committed to creating and deploying technology at the leading edge which advances our mission and spurs innovation.
- **Big Data-** As data is growing exponentially, High Performance Computing is the primary tools to spur insight, and perform big data analytics. Computing, storage, and high-speed networking coupled with analytics software will assist data scientists and mission owners throughout the department. These capabilities will advance many initiatives, including the Department's Automated Litigation Services, expeditiously analyzing images, and providing real-time intelligence for our law-enforcement – helping to ensure the safety of the American people.



## V. Program Increases by Item

Item Name:	Justice Security Operations Center (JSOC)
Strategic Goal:	Supports Strategic Goal 1-3
Budget Decision Unit(s):	JIST
Organizational Program:	JMD/OCIO / Cybersecurity Services Staff (CSS)

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$9,240,000

### Description of Item

The JSOC is a 24x7 operation that provides comprehensive cyber incident detection, monitoring, and response management services for protecting the DOJ's computer networks. The adversaries attempting to harm the DOJ networks, systems, and employees are increasing in numbers, intent, and sophistication, and the JSOC is the central coordination point for the entire Department's cyber defense activities.

One of the major aspects of JSOC operations is the hunt for the Advanced Persistent Threat; APTs are a sophisticated and organized cyber-espionage activity with the mission of accessing and stealing information from compromised computers (the 2015 OPM cyberattack is an example of APT). In the event of hostilities, APT espionage activity can rapidly turn destructive (Sony) and cripple every aspect of DOJ's mission. The JSOC currently tracks over 1,000 possible APT events every year. At present time, much of the JSOC's APT defense capabilities are manually executed and lack modern capabilities. Compounding the issue is the rapid dissolution of the Department's network boundaries due to "cloud first" implementations.

Another major part of JSOC is Incident Response (IR), Analysis, and Investigation support. Since 2011, DOJ has consistently experienced around 7,000 cybersecurity incidents per year. JSOC uses a variety of technologies to perform advanced analysis of systems, network traffic, and malicious software. This includes detection and elimination of events such as covert communication channels, malicious software (Trojans, root kits, viruses, worms, etc.), and unauthorized network devices.

The \$9.2 million enhancement request will allow DOJ to consolidate SOC operations using modern tools to combat adversaries seeking to harm the Department through cyber intrusion.

### Justification

While cloud capabilities offer the Department flexible cost effective platforms, new security infrastructure capable of monitoring those platforms must be put in-place or DOJ risks having a significant breach of its systems. To combat APT where the DOJ's data resides, the JSOC must consolidate and leverage new monitoring, analysis, and response technologies in order to quickly and effectively respond to malicious activity that hides in routine network traffic or lies dormant until it is required to gain access to the data. Centralizing advanced capabilities will provide the JSOC with the ability to leverage cyber intelligence across the Department to locate and identify traces of APT. The JSOC has numerous sources of cyber intelligence; however, it is only able to



leverage a small fraction of the information and the fusion process is manual and does not permit the application of intelligence indicators across the Enterprise.

The Department of Justice is especially attractive to cyber attackers and intrusions because of its law enforcement, litigation, incarceration, civil protection, and national security missions, and is under a constant barrage of seemingly malicious attempts to access the DOJ systems and networks. The investment in the JSOC program will allow the Department to analyze the relevant data sources to be more agile in its detection and response to cyber threats and attacks. Secure and resilient systems and networks will provide DOJ's agents, attorneys, and analysts with the necessary fully-functioning, secure IT tools to accomplish the DOJ mission. Additionally, FY 2017 investments will fund the recurring costs of JSOC investments in FY 2015 and planned for FY 2016.

### **Impact on Performance**

Cybersecurity is a crucial aspect of business in the twenty-first century. Cyber-breaches are increasing in both number and severity, as witnessed with the attack on the Office of Personnel Management (OPM) in June 2015, and the frequency of reports of high-profile intrusions and attacks across the public and private sector serve as reminders of the serious threats that exist. Few, if any, organization missions can be executed without the support of information technology (IT) systems. Those systems must be secured to protect sensitive data, the availability of data and workflows crucial to mission execution, and the integrity of data that guides critical decision-making.

Without modernizing the technology, the evolving and dangerous Advanced Persistent Threats will not be adequately addressed. Today, many of the APT defensive activities are manually executed by the JSOC team; however, with the sophistication of the threats increasing, automating and installing the newest technologies is vital to protecting the DOJ mission.

Additionally, the security IT infrastructure was not originally designed for the tremendous volume of today's system activity, so if an OPM-type incident was to occur, the aged infrastructure would preclude DOJ from conducting effective forensic analysis and incident response/containment, i.e., the Department would be drastically impacted and the ability to understand the extent of the damage would be minimal. As foreboding as that sounds, it pales in comparison to the impact of a Sony style destructive attack—every Departmental mission would be crippled and the Department would be unable to perform even its most basic functions.



## Funding

FY 2018 Enacted				FY 2018 Proposed Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
3	0	3	\$492	3	0	3	\$525	5	0	5	\$875

### Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
		0	\$0	\$0	\$0
Total Personnel		0	\$0	\$0	\$0

### Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non-Personnel (Hardware, Software, Contractor Support)			\$9,240	\$3,200	\$0

### Total Request for this Item

	Pos	Agg/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	6	0	5	\$875	\$0	\$875	\$0	\$0
Increases	0	0		\$0	\$9,240	\$9,240	\$3,200	0
Grand Total	5	0	5	\$875	\$9,240	\$10,115	\$3,200	\$0

### Affected Crosscuts

The Cybersecurity and National Security crosscuts will be affected by this request.



## V. Program Increases by Item

<b>Item Name:</b>	<b>Identity, Credential, and Access Management (ICAM) (including Classified)</b>
<b>Strategic Goal:</b>	Supports Strategic Goal 1-3
<b>Budget Decision Unit(s):</b>	JIST
<b>Organizational Program:</b>	JMD/OCIO / Cybersecurity Services Staff (CSS)

Program Increase: Positions 0 Agt/Atty FTE 0 Dollars \$6,600,000

### **Description of Item**

The purpose of the Identity, Credential, and Access Management (ICAM) program is to establish a trusted identity for every DOJ user along with the access controls necessary to ensure that the right user is accessing the right resources at the right time.

Over the past several years, the Department has focused on issuing PIVCard/Smart Card credentials to eligible DOJ employees and contractors for access to unclassified and classified networks. The PIVCard is the government's solution for multi-factor authentication of personnel for system and facility access. To date, credentials have been issued to 94% of unclassified users and 95% of classified users. The current emphasis is on accelerating the mandatory use of these credentials for access to facilities and networks (currently 44% on unclassified networks, and 52% on classified networks), and applications (currently 18% on unclassified applications and 15% of classified applications).

The \$6.6 million enhancement request is for an Enterprise Identity Management Solution that will issue, scan, secure, and revoke personal identity verification (PIV) card certificates based on HSPD-12 standards.

### **Justification**

In order to take advantage of the investment in PIV, DOJ must move to an Enterprise identity management solution. This solution will permit internal applications, data center applications, and cloud-based systems to utilize PIV authentication. The solution will also permit the automated streamlining of user provisioning/de-provisioning. This will assist the Department by ensuring only those users with an authorized and valid PIV card are able to access Department systems wherever they may be located and there is one central location to disable user's access once they have left the Department.

The Department also requests funding to build out a Department managed PKI management system. PKI certificates are used by DOJ systems to secure network transmissions. As the Department moves more systems to the cloud, these systems rely on PKI to secure, encrypt, and enforce trust among entities. Moving to a Department managed PKI management group, the Department knows where its keys are stored and who is using them. This allows the JSOC to monitor encrypted streams for signs of malicious activity. With unmanaged keys, the JSOC cannot distinguish normal network traffic from that which may be malicious or harmful.



The key business drivers for the DOJ ICAM have been identified as the following:

- Transition from user name and password to multi-factor authentication to increase security by requiring a physical asset combined with a passcode, which limits the possibility of a hacker acquiring both. This correlates directly to a reduction in identity theft, data breaches, and trust violations. Specifically, ICAM closes security gaps in the areas of user identification and authentication, encryption of sensitive data, and logging and auditing.
- Improved interoperability and trust, specifically between agencies using their PIV credentials. The credential is a trusted indicator of identity shared across the government.
- Centralized management of certificates ensures security of internal and cloud based systems, facilitates easier issuance and control of certificates.
- Large number of classified systems under management increases the need for multi-factor authentication.
- Limiting the types of credentials requiring oversight and management will bring efficiency and cost savings.
- Compliance with federal guidelines (e.g., FICAM Roadmap and FICAM on Secret Fabric Planning, HSPD-12, OMB M-11-11, EO 13587, CNSSD-506, and CNSSD-507) and the Cybersecurity CAP goals.

#### **Impact on Performance**

Identity, Credential, and Access Management is a crucial component of both facility and information systems security. Systems and applications need to be updated to allow for this multi-factor authentication effort, per the HSPD-12 requirements, to prevent unauthorized individuals from accessing DOJ information systems and facilities. Once implemented, these requested enhancements will align unclassified and classified ICAM initiatives, and allow the Department to not only become compliant with federal mandates, but also to enhance the user experience, permit improved access to systems and facilities, and facilitate greater interoperability between Federal organizations. Without this investment, the program will continue to struggle to meet the federal mandates, leave data and systems exposed to cyber threats through unmanaged keys, and be unable to keep up with authenticating users in mobile and cloud environments.



**Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	\$3,948	0	0	0	\$4,114	0	0	0	\$3,114

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
	\$0	0	\$0	\$0	\$0
<b>Total Personnel</b>		0	\$0	\$0	\$0

**Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
<b>Total Non-Personnel (Hardware, Software, Contractor Support)</b>			\$6,600	2,300	

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total FY17 (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
<b>Current Services</b>	0	0	0	\$0	\$3,114	\$3,114	\$0	\$0
<b>Increases</b>	0	0	0	\$0	\$6,600	\$6,600	\$2,300	\$0
<b>Grand Total</b>	0	0	0	\$	\$9,714	\$9,714	\$2,300	\$0

**Affected Crosscuts**

The Cybersecurity and National Security crosscuts will be affected by this request.



## V. Program Increases by Item

<b>Item Name:</b>	<b>Information Security Continuous Monitoring (ISCM)</b>
<b>Strategic Goal:</b>	Supports Strategic Goal 1-3
<b>Budget Decision Unit(s):</b>	JIST
<b>Organizational Program:</b>	JMD/OCIO / Cybersecurity Services Staff (CSS)

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$6,600,000

### Description of Item

Funding in support of this program primarily comes from the WCF, with a nominal sum of JIST resources for government personnel. The program consists of two major parts: (1) supporting, monitoring, and reporting on system and network security health; and (2) providing personnel to support DOJ components and organizations in their efforts to properly secure their systems.

The Department has in-place a continuous monitoring program for enterprise-wide solutions to automate asset management, configuration, and vulnerability management; scan networks and systems for anomalies; encrypt workstations and data in-transit; and produce dashboard reports for executive awareness and risk-based decision-making.

ISCM Policy Analysts work with components to develop and facilitate awareness and understanding of IT security requirements. These Policy Analysts work directly with their respective component customers as their systems move through the certification and accreditation approvals and into operational environments.

The program increase of \$6.6 million is for enhanced monitoring capabilities that index and analyzes additional IT information for use by components and for monitoring privileged accounts and user activity. It also includes recurring costs from planned cyber requirements in FY 2015 and FY 2016.

### Justification

To meet ever-changing cyber threats and become the highly effective cybersecurity program DOJ needs, ISCM needs to evolve in the following ways:

- Acquire technologies that map network device configurations and potential attack paths that our adversaries could exploit. Enhance monitoring of privileged user accounts and user activity and expand the asset management capabilities beyond desktops and laptops to network devices (e.g., switches, routers) and mobile devices (e.g., tablets, smartphones).
- Obtain contractor support to incorporate additional threat and configuration feeds, build more detailed reporting and alerts, and automate certification and accreditation activities. Also, this investment will broaden the scope of the cybersecurity reporting to include not only IT system data, but also personnel/HR, financial, case management, and other data sources to enhance leadership's cybersecurity decision-making ability.



- Obtain contractor personnel to enhance the customer-centric Policy Analyst program with a broader scope of responsibility for the Federal Information System Management Act (FISMA) compliance, General Accounting Office Federal Information System Control Audit Manual (FISCAM) guidance, Audit Liaison, and Information System Security Officer (ISSO) for their component's customers.

While the asset management applications provide insight into the security posture of the enterprise and present the details in an easily digestible package for managerial risk-based decision-making, they provide only a partial view of the environment. Broadening the scope of systems being monitored and adding more data points and feeds would provide a more comprehensive view of the DOJ cybersecurity posture, IT environment, and potential weaknesses, thereby providing increased confidence to make enterprise-wide risk-based decisions. The ISCM program is also charged with incorporating and extracting value from the DHS Continuous Diagnostics and Mitigation program. The CDM program has provided specific visibility and gap fills for security areas: The program tools have been provided by DHS for a three-year period, and in FY 2017, DOJ must assume the operations and maintenance costs previously paid by DHS; \$1,200,000.

### **Impact on Performance**

The cyber threat landscape has evolved as technologies, capabilities, and incentives have changed. The threat actors have better equipment, better training, and more motivation to do the Department harm. The ability to monitor and protect DOJ's mission, to include networks, databases, end points, and applications is vital for a fully effective cybersecurity program to succeed.

To meet ever-changing cyber threats and become the highly effective cybersecurity program the Department needs, ISCM must invest to provide the following services:

- Increase coverage of indexing to include all users, traffic, and devices and provide analysis of all indexed data. This solution enables components to monitor network activity with sophisticated analytical techniques to enhance accountability, identify security threats, and investigate operational anomalies.
- Enhance reporting tools for executive cyber security decision making by including and correlating personnel/HR, financial, case management, and other data sources.

The ISCM program is integral in addressing cybercrime as a top DOJ Priority, particularly in the areas of deterrence, detection, and protection, as the program seeks to protect all electronic assets across the entire Department. Leveraging Policy Analysts and new technological advances, we will broaden our current approach for monitoring our security baseline to include new systems and data. With additional funding we will be able to incorporate a wide variety of new data, transform it into decision-making information, and use our Policy Analysts to institutionalize it throughout DOJ.



## Funding

### Base Funding

FY 2015 Requested				FY 2016 Requested				FY 2017 Requested			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
1	0	1	\$164	1	0	1	\$175	1	0	1	\$175

### Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
	\$0	0	\$0	\$0	\$0
<b>Total Personnel:</b>		0	\$0	\$0	\$0

### Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non-Personnel (Hardware, software, contractor support)			\$6,600	\$2300	\$0

### Total Request for this Item

	Pos	Agg/ Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	FY17 Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	1	0	1	\$175	\$0	\$175	\$0	\$0
Increases	0	0	0	\$0	\$6,600	\$6,600	\$2,300	\$0
Grand Total	1	0	1	\$175	\$6,600	\$6,775	\$2,300	\$0

### Affected Crosscuts

The Cybersecurity and National Security crosscuts will be affected by this request.



## V. Program Increases by Item

<b>Item Name:</b>	<b>Insider Threat Prevention and Detection Program (ITPDP)</b>
<b>Strategic Goal:</b>	Supports Strategic Goal 1-3
<b>Budget Decision Unit(s):</b>	JIST
<b>Organizational Program:</b>	JMD/OCIO / Cybersecurity Services Staff (CSS)

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$4,000,000

### **Description of Item**

The DOJ Insider Threat Prevention and Detection Program (ITPDP) is responsible for protecting sensitive and classified information and resources from misuse, theft, unauthorized disclosure, or espionage by insiders.

The Assistant Attorney General for Administration is designated as DOJ's Senior Department Official (SDO) with the authority to provide and delegate responsibility for management, accountability, and oversight of the DOJ ITPDP as outlined in DOJ Order 0901, *Insider Threat*. Clearly communicated roles and responsibilities among the components are critical to preventing and detecting insider threats and meeting national insider threat requirements.

To meet the program goals, the DOJ ITPDP performs five primary functions:

- Collect and integrate user activity data from various offices and sources
- Analyze collected data to identify indicators of insider threats
- Track insider threat matters brought to the attention of the DOJ ITPDP
- Make the appropriate law enforcement or administrative referrals when possible insider threat activity is discovered
- Educate all employees and contractors on insider threat

The program remains immature in its development and DOJ does not yet have full capability in any of the five functions above.

The enhancement request of \$4.0 million is for acquisition and integration of a user activity monitoring platform and building of a Department hub to centralize information on user activity for Insider Threat analysis.

### **Justification**

To mature the program to appropriate levels, resources must be dedicated to advance and enhance each of the five points above.

- Employ the technology and personnel to connect and monitor user activity across the entire enterprise



- Implement the systems and train the personnel to conduct analysis on the data to identify anomalies in behavior and indicators of potential insider threat activities
- Train personnel on managing the process of pursuing insiders from identification through investigation
- Develop and distribute a more advanced insider threat awareness training, and establish a baseline training program for resources working on the ITPDP

Insider threat is a major attack vector that can produce the most damage for an organization. In examining the most infamous, government data breaches in recent memory, all were perpetrated by insiders: Robert Hansen at the FBI sold hundreds of classified documents to the Russians for profit; Edward Snowden “liberated” thousands of records and documents from the NSA to expose perceived wrong-doing; and Bradley Manning provided WikiLeaks with hundreds of thousands of classified files “to open America’s eyes” to the conflicts in Iraq and Afghanistan.

Given DOJ’s critical and sensitive mission, it is imperative to strengthen DOJ’s ability to prevent and detect insider threats in real time. The current program is nascent in its capabilities and needs to grow the technical foundation and analytic competencies to perform the primary insider threat program functions. To be comprehensive this needs to be accomplished across both classified and unclassified systems because focusing on only either one addresses just half of the possible problems.

DOJ is especially attractive to insiders because of its national security, law enforcement, litigation, incarceration, and civil protection missions. Establishing a technically-capable and independent program is necessary to identify and pursue insider threats in these critical mission areas.

### **Impact on Performance**

This investment will be used to build an insider threat solution that enables us to know where critical information is, who is accessing it, and if the access is authorized. The solution will enable the proactive detection of patterns and correlated indicators across multiple types of information (e.g. human resources, information assurance, security classification, and counterintelligence) that can lead to the prevention or mitigation of harm to the security of the United States. Further, this investment centralizes data sources and processes into a DOJ insider threat hub for fast and comprehensive views of diverse data streams. Once the DOJ insider threat program is built, DOJ will have insight into the anomalous activity that can indicate insider threats, and the processes in place to gather the data and pursue the inside threat actors to a proper conclusion.

Without these additional resources, the tools will not be available to perform user activity monitoring or behavioral analysis, nor will the insider threat analysis be in place to perform the necessary functions. As a result, the insider threat risks to sensitive and classified information systems will not be sufficiently addressed and the DOJ efforts to prevent, detect, and respond to insider threats will remain inadequate.



The Insider Threat Prevention and Detection Program is integral to supporting the Funding Priority of Cybercrime in the areas of Deterrence, Detection, and Protection, and the program seeks to protect the electronic assets and reputation of the entire Department.



## Funding

### Base Funding

FY 2017 Requested				FY 2018 Proposed				FY 2019 / Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
1	0	1	0	1	0	1	\$175	1	0	1	\$175

### Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
	\$0	0	\$0	\$0	\$0
Total Personnel		0	\$0	\$0	\$0

### Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non-Personnel (Hardware, Software, Contractor Support)			\$4,000	\$1,400	\$0

### Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	1	0	1	\$175	\$0	\$175	\$0	\$0
Increases	0	0	0	\$0	\$4,000	\$4,000	\$1,400	\$0
Grand Total	1	0	1	\$175	\$4,000	\$4,175	\$1,400	\$0

### Affected Crosscuts

The Cybersecurity and National Security crosscuts will be affected by this request



**Summary of Requirements**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	45	35	25,842
Total 2015 Enacted	45	35	25,842
2016 Enacted	45	45	31,000
Base Adjustments			
Pay and Benefits	0	0	82
Domestic Rent and Facilities	0	0	39
Total Base Adjustments	0	0	121
Total Technical and Base Adjustments	0	0	121
2017 Current Services	45	45	31,121
Program Changes			
Increases:			
Cyber Security	0	0	26,440
Subtotal, Increases	0	0	26,440
Total Program Changes	0	0	26,440
2017 Total Request	45	45	57,561
2016 - 2017 Total Change	0	0	26,561

<sup>1/</sup> FY 2015 FTE is actual



**Summary of Requirements**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Justice Information Sharing Technology	45	35	25,842	45	45	31,000	0	0	121	45	45	31,121
Total Direct	45	35	25,842	45	45	31,000	0	0	121	45	45	31,121
Balance Rescission			0			0			0			0
Total Direct with Rescission			25,842			31,000			121			31,121
Reimbursable FTE		0			0			0			0	
Total Direct and Reimb. FTE		35			45			0			45	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
Grand Total FTE		35			45			0			45	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Justice Information Sharing Technology	0	0	26,440	0	0	0	45	45	57,561
Total Direct	0	0	26,440	0	0	0	45	45	57,561
Balance Rescission			0			0			0
Total Direct with Rescission			26,440			0			57,561
Reimbursable FTE		0			0			0	
Total Direct and Reimb. FTE		0			0			45	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total FTE		0			0			45	



FY 2017 Program Increases/Offsets by Decision Unit  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Justice Information Sharing Technology				Total Increases		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE Amount
Cyber Security	21-33	0	0	0	26,440	0	0	0 26,440
Total Program Increases		0	0	0	26,440	0	0	0 26,440

Program Offsets	Location of Description by Program Activity	Justice Information Sharing Technology				Total Offsets		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE Amount
No Program Offsets								
Total Program Offsets								



**Resources by Department of Justice Strategic Goal and Objective**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	35	25,842		45	31,000	45	45	31,121		0	28,440	0	0	0	0	45	57,561	
2.6 Protect the federal fisc and defend the interests of the United States	35	25,842		45	31,000	45	45	31,121		0	28,440	0	0	0	0	45	57,561	
TOTAL	35	25,842		45	31,000	45	45	31,121		0	28,440	0	0	0	0	45	57,561	



**Justifications for Technical and Base Adjustments**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
<b>Pay and Benefits</b>	Pos.	FTE	
1 2017 Pay Raise - 1.6%	0	0	100
2017 Pay Raise - 1.6%			
2 Annualization of 2016 Pay Raise	0	0	23
Annualization of 2016 Pay Raise			
3 Changes in Compensable Days	0	0	-53
Changes in Compensable Days			
4 Health Insurance	0	0	5
Health Insurance			
5 Retirement	0	0	7
Retirement			
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>82</b>
<b>Domestic Rent and Facilities</b>			
1 GSA Rent	0	0	33
GSA Rent			
2 Guard Service	0	0	6
Guard Service			
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>39</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>0</b>	<b>121</b>



**Crosswalk of 2015 Availability**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Appropriation			Reprogramming/Transfers			Carryover		Recoveries/		FY 2015 Availability		
	Direct Pos.	Enacted FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount	Amount	
Justice Information Sharing Technology	45	35	25,842	0	0	4,299	7,521	8,000	45	35	45,662		
<b>Total Direct</b>	<b>45</b>	<b>35</b>	<b>25,842</b>	<b>0</b>	<b>0</b>	<b>4,299</b>	<b>7,521</b>	<b>8,000</b>	<b>45</b>	<b>35</b>	<b>45,662</b>		
Balance Rescission			0			0	0	0			0		
Total Direct with Rescission			25,842			4,299	7,521	8,000			45,662		
Reimbursable FTE		0			0					0			
Total Direct and Reimb. FTE		35			0					35			
Other FTE:													
LEAP FTE		0			0					0			
Overtime		0			0					0			
Grand Total, FTE		35			0					35			

**Reprogramming/Transfers:**  
Justice Information Sharing Technology (JIST) consist of \$414,000 and \$2,880,000 in transfers from Spectrum Relocation and \$1,005,000 in transfers for Cyber Security

In FY 2015, Justice Information Sharing Technology received \$5,483,233 as a 1 year transfer for Cyber Security.

**Footnote:** Actual Justice Information Sharing Technology transfers for FY2015 total \$9,792,000 which consist of 1 year and no year dollars. In FY2015, \$1,791,000 in transfers for Cyber Security were double counted when reported in MAX. (\$1,493M - \$9,792M = \$1.7M)

**Carryover:**  
Justice Information Sharing Technology has direct carryforward of \$7,521,000.

**Recoveries/Refunds:**  
Justice Information Sharing Technology consist of actual recoveries of \$9,000,276.



**Crosswalk of 2016 Availability**  
**Justice Information Sharing Technology**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Justice Information Sharing Technology	45	45	31,000	0	0	0	14,512	0	45	45	45,512
<b>Total Direct</b>	<b>45</b>	<b>45</b>	<b>31,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>14,512</b>	<b>0</b>	<b>45</b>	<b>45</b>	<b>45,512</b>
Balance Rescission			0				0	0			0
Total Direct with Rescission			31,000				14,512	0			45,512
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		45			0					45	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total FTE</b>		<b>45</b>			<b>0</b>					<b>45</b>	

**Reprogramming/Transfers:**

Carryover: JIST has direct carryforward of \$14,511,850.

**Recoveries/Refunds:**



## H. Summary of Reimbursable Resources

**Summary of Reimbursable Resources**  
**Justice Information Sharing Technology**  
 Salaries and Expenses  
 (Dollars in Thousands)

Collections by Source	2015 Actual			2015 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Bureau of Alcohol, Tobacco, Firearms and Explosives	0	0	44	0	0	0	20	0	0	35	0	15
Community Oriented Policing Services	0	0	174	0	0	106	0	0	128	0	0	22
Drug Enforcement Administration	0	0	44	0	0	20	0	0	37	0	0	17
Federal Bureau of Investigation	0	0	4,948	0	0	2,922	0	0	3,500	0	0	578
General Administration	0	0	989	0	0	44	0	0	65	0	0	21
Department of Justice (JMD/SEPS)	0	0	1,343	0	0	5,970	0	0	5,500	0	0	-470
Working Capital Fund - JMD Finance Staff	0	0	139	0	0	0	0	0	0	0	0	0
Working Capital Fund - JMD Budget Staff	0	0	24,700	0	0	0	0	0	0	0	0	0
Office of Justice Programs/SMART/Indian Affairs	0	0	0	0	0	256	0	0	0	0	0	-256
Office of Personnel Management	0	0	110	0	0	87	0	0	100	0	0	13
Office on Violence Against Women	0	0	174	0	0	129	0	0	145	0	0	16
U.S. Attorneys	0	0	277	0	0	103	0	0	300	0	0	197
U.S. Marshals Services	0	0	44	0	0	20	0	0	35	0	0	15
Justice Management Division - RFM/Spectrum	0	0	2,034	0	0	0	0	0	0	0	0	0
Justice Management Division - WMO	0	0	0	0	0	0	0	0	0	0	0	0
Debt Collection Management	0	0	200	0	0	215	0	0	225	0	0	10
Justice Management Division/JABS	0	0	350	0	0	0	0	0	0	0	0	0
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>35,570</b>	<b>0</b>	<b>0</b>	<b>9,892</b>	<b>0</b>	<b>0</b>	<b>10,070</b>	<b>0</b>	<b>0</b>	<b>178</b>

Obligations by Program Activity	2015 Actual			2015 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Justice Information Sharing Technology	0	0	35,570	0	0	9,892	0	0	10,070	0	0	178
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>35,570</b>	<b>0</b>	<b>0</b>	<b>9,892</b>	<b>0</b>	<b>0</b>	<b>10,070</b>	<b>0</b>	<b>0</b>	<b>178</b>



Detail of Permanent Positions by Category  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	Program Increases	Program Offsets	Total Direct Pos.
Security Specialists (080)	1	0	1	0	0	0	1
Clerical and Office Services (0300-0399)	10	0	10	0	0	0	10
Accounting and Budget (500-599)	1	0	1	0	0	0	1
Information Technology Mgmt. (2210-2299)	23	0	33	0	0	0	33
Total	35	0	45	0	0	0	45
Headquarters Washington D.C.	35	0	45	0	0	0	45
US Fields	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0
Total	35	0	45	0	0	0	45



**Financial Analysis of Program Changes**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Justice Information Sharing Technology				Total Program Changes			
	Program Increases		Program Decreases		Program Increases		Program Decreases	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
No grades	0	0	0	0	0	0	0	0
Lapse (-)	0	0	0	0	0	0	0	0
11.5 - Other personnel compensation	0	0	0	0	0	0	0	0
Total FTEs and Personnel Compensation	0	0	0	0	0	0	0	0
21.0 - Travel and transportation of persons		412						412
25.1 - Advisory and assistance services		8,224				8,224		8,224
25.2 - Other services from non-federal sources		3,100				3,100		3,100
25.3 - Other goods and services from federal sources		7,842				7,842		7,842
26.0 - Supplies and materials		12				12		12
31.0 - Equipment		6,850				6,850		6,850
Total Program Change Requests	0	26,440	0	0	0	0	0	26,440



**Summary of Requirements by Object Class**  
Justice Information Sharing Technology  
Salaries and Expenses  
(Dollars in Thousands)

K. Summary of Requirements by Object Class

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	35	4,957	45	5,574	45	6,278	0	704
11.3 - Other than full-time permanent	0	0	0	0	0	0	0	0
11.5 - Other personnel compensation	0	88	0	86	0	92	0	6
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>35</b>	<b>5,045</b>	<b>45</b>	<b>5,660</b>	<b>45</b>	<b>6,370</b>	<b>0</b>	<b>710</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		1,476		1,709		1,905		196
21.0 - Travel and transportation of persons		56		16		16		0
22.0 - Transportation of things		100		25		25		0
23.1 - Rental payments to GSA		734		717		750		33
23.2 - Rental payments to others		51		19		25		6
23.3 - Communications, utilities, and miscellaneous charges		1,370		689		1,135		446
24.0 - Printing and reproduction		3		0		0		0
25.1 - Advisory and assistance services		10,510		15,701		16,976		1,275
25.2 - Other goods and services from non-federal sources		7,428		7,100		6,399		-701
25.3 - Other goods and services from federal sources		5,425		11,834		16,396		4,562
25.4 - Operation and maintenance of equipment		5		0		0		0
25.7 - Operation and maintenance of equipment		708		973		983		10
26.0 - Supplies and materials		21		159		30		-129
31.0 - Equipment		5,300		910		6,551		5,641
32.0 - Land and structures		112		0		0		0
<b>Total Obligations</b>		<b>38,344</b>		<b>45,512</b>		<b>57,581</b>	<b>0</b>	<b>12,049</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-7,521		-14,512		0		14,512
Transfers/Reprogramming		-6,000		0		0		0
Recoveries/Refunds		-5,493		0		0		0
Balance Rescission		-8,000		0		0		0
Unobligated End-of-Year, Available		14,512		0		0		0
Unobligated End-of-Year, Expiring		0		0		0		0
<b>Total Direct Requirements</b>		<b>25,842</b>		<b>31,000</b>		<b>57,581</b>		<b>26,561</b>
Reimbursable FTE								
Full-Time Permanent	0		0		0		0	0

Exhibit K - Summary of Requirements by Object Class



**Modular Costs for New 2017 Positions**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

<b>Component:</b>	Justice Information Sharing Technology
<b>Type:</b>	Domestic
<b>Position:</b>	Professional Support

[illegible]



# **United States Department of Justice Administrative Review and Appeals**



**FY 2017 Performance Budget  
Congressional Budget Submission**



## Table of Contents

	Page No.
<b>I. Overview .....</b>	<b>2</b>
Executive Office for Immigration Review .....	2
Office of Pardon Attorney .....	11
<b>II. Summary of Program Changes .....</b>	<b>14</b>
<b>III. Appropriations Language and Analysis of Appropriation Language ....</b>	<b>15</b>
<b>IV. Program Activity Justification.....</b>	<b>16</b>
A. Executive Office for Immigration Review.....	16
1. Program Description .....	16
2. Performance Tables .....	17
3. Performance, Resources, and Strategies .....	19
B. Office of Pardon Attorney.....	21
1. Program Description .....	21
2. Performance Tables .....	22
3. Performance, Resources, and Strategies .....	24
<b>V. Program Increases .....</b>	<b>26</b>
A. Modernization of Mission Critical Systems .....	26
B. Infrastructure Improvements.....	28
C. Clemency Initiative.....	30
<b>VI. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	



## **I. Overview of the Executive Office for Immigration Review**

### **A. Introduction**

***EOIR's Mission and Strategic Objective:*** The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.

***Budget Summary:*** To support the mission of the agency, EOIR requests a total of \$428,151,000 in direct budget authority, including 2,138 permanent positions and 1,832 full time equivalents (FTE). The request is offset by \$4,000,000 to be transferred to EOIR from the Department of Homeland Security's (DHS) Immigration Examination Fee Account. In the FY 2016 Enacted EOIR was provided an additional 55 Immigration Judge Teams. In FY 2017 EOIR expects to continue its focus on hiring up to its authorized levels of adjudicators and supporting staff. EOIR requests \$7,433,000 in program increases to make needed infrastructure improvements and to modernize mission critical case management and related systems.

EOIR consistently and strategically assesses caseload volumes, trends, and geographic concentration of cases to appropriately adjust resource allocations to ensure that mission requirements are met at the lowest possible cost to the U.S. taxpayer. In addition, EOIR is in frequent contact with DHS regarding enforcement activities so as to gauge the impact of these activities on the immigration courts and Board of Immigration Appeals. These discussions enable EOIR to adjust dockets and resource allocations as needed across the country. The FY 2017 budget request provides the appropriate resources to continue the execution of EOIR's mission into the future.

### **B. Program Overview**

#### ***1. Organization of EOIR***

EOIR administers the nation's immigration court system. EOIR primarily decides whether foreign-born individuals, who are charged by DHS with violating immigration law, should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in this country. To make these critical determinations, EOIR operates 57 immigration courts throughout the country and has a centralized Board of Immigration Appeals located at EOIR Headquarters. EOIR also adjudicates cases involving illegal hiring and employment eligibility verification violations, document fraud, and employment discrimination. EOIR Headquarters, located in Falls Church, VA, provides centralized operational, policy, and administrative support to EOIR immigration proceedings and programs conducted throughout the United States. Under the direction of the EOIR Director and Deputy Director, the following components conduct adjudicative proceedings:



### **1.1. Adjudicative Components**

- **Board of Immigration Appeals (BIA)** – Under the direction of the Chairman, the BIA hears appeals of decisions of immigration judges and certain decisions of officers of the DHS in a wide variety of proceedings in which the Government of the United States is one party and the other party is an alien, a citizen, or a transportation carrier. The BIA is directed to exercise its independent judgment in hearing appeals for the Attorney General, and provides a nationally uniform application of the immigration laws. The majority of cases before the BIA involve appeals from orders of EOIR's immigration judges entered in immigration proceedings.

Appeals of decisions of DHS officers, reviewed by the BIA, principally involve appeals from familial visa petition denials and decisions involving administrative fines on transportation carriers. The BIA also renders decisions on applications of recognition by organizations that have requested permission to practice before the BIA, the immigration judges, and DHS, and renders decisions on individual applications of accreditation by employees of such organizations. The BIA also issues decisions relating to the EOIR Attorney Discipline Program.

BIA decisions are binding on immigration judges and all DHS officers unless modified or overruled by the Attorney General or a federal court. Certain BIA decisions that the BIA designates as precedent decisions apply to immigration cases nationwide. Through precedent decisions, the BIA provides guidance to immigration judges, DHS, and the general public on the proper interpretation and administration of the immigration laws and regulations. The BIA is the highest administrative tribunal for interpreting and applying U.S. immigration law.

The BIA plays the major role in interpreting the immigration laws of the country in an area of law the courts have characterized as uniquely complex. Processing a high-volume caseload has been a challenging task in a time of constant federal court activity.

- **Office of the Chief Immigration Judge (OCIJ)** – The OCIJ oversees the administration of 57 immigration courts located throughout the United States and exercises administrative supervision over EOIR employees, including immigration judges, assigned to those courts. The OCIJ develops policies and procedures for immigration proceedings throughout the immigration court system. The IJs in OCIJ preside over administrative court proceedings, called removal proceedings, to determine whether foreign-born individuals, who are charged by DHS with violating immigration law, should be ordered removed from the United States or should be granted relief or protection from removal and be permitted to remain in this country. Generally, IJs determine removability and adjudicate applications for relief from removal such as cancellation of removal, adjustment of status, asylum, or waivers of removability. Custody redetermination hearings are held when an alien in DHS custody seeks a reduction in the bond amount set by DHS, or a release on his or her own recognizance.



With respect to criminal alien adjudications, the Institutional Hearing Program (IHP)<sup>1</sup> provides the framework for hearings to determine the immigration status of aliens convicted of offenses who are incarcerated in federal, state and local prisons across the United States. EOIR's IHP is designed to expedite the removal of criminal aliens and involves close coordination with DHS, the Bureau of Prisons, and state and local corrections authorities.

The Chief Immigration Judge provides overall program direction, articulates policy, and establishes priorities for the immigration judges located in 57 courts throughout the United States. The Chief Immigration Judge carries out these responsibilities with the assistance of Deputy and Assistant Chief Immigration Judges, and offices such as the Chief Clerk's Office and Language Services Unit assist with coordinating the management and operation of the immigration courts.

- **Office of the Chief Administrative Hearing Officer (OCAHO)** – The OCAHO adjudicates cases involving illegal hiring and employment eligibility verification violations (“employer sanctions”), document fraud and employment discrimination under the Immigration and Nationality Act. The OCAHO is headed by a Chief Administrative Hearing Officer (CAHO) who provides overall program direction, articulates policies and procedures, establishes priorities, and administers the hearing process presided over by Administrative Law Judges (ALJs). The CAHO also reviews decisions and orders issued by OCAHO ALJs in employer sanctions and document fraud cases, and may modify, vacate or remand those decisions and orders.

OCAHO employs ALJs appointed pursuant to 5 U.S.C. § 3105 to adjudicate cases arising under Sections 274A, 274B and 274C of the INA. Section 274A provides for sanctions (civil penalties and injunctive relief) against employers or entities who: (1) knowingly hire, recruit, or refer for a fee, or continue to employ, unauthorized aliens; (2) fail to comply with employment eligibility verification requirements; or (3) require the execution of an indemnity bond by employees to protect the employer or entity from potential liability for unlawful employment practices. Section 274B prohibits employment discrimination based on national origin or citizenship status and provides for civil penalties and various equitable remedies. Section 274C provides civil penalties for immigration-related document fraud. Adjudicative proceedings are initiated by complaints filed with OCAHO by DHS (in Section 274A and Section 274C cases), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) in the Civil Rights Division, and/or aggrieved private parties and entities (in section 274B cases). Cases are assigned to ALJs by the CAHO, who is also responsible for program management and policy development for the Office.

The CAHO is also authorized to conduct administrative reviews of ALJ decisions in INA Sections 274A and 274C cases, and may affirm, modify, vacate and/or remand such decisions. Unless the case is certified to the Attorney General, the CAHO's decision on review constitutes the final agency action with respect to these cases. The CAHO also certifies that ALJs who hear Section 274B cases have received the specialized training in employment discrimination matters that is required by statute.

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<sup>1</sup> Note, the Department of Homeland Security refers to this same program as the “Institutional Hearing and Removal Program.”



### 1.2. Map of the Immigration Courts



### 1.3. Non-Adjudicative Components

A number of other Headquarters offices also provide EOIR-wide mission support:

- Office of the Director – In addition to the Director, Deputy Director, and senior advisors, the Office of the Director includes the Office of Communications and Legislative Affairs, the Equal Employment Opportunity Office, the Office of Legal Access Programs (OLAP), and the Office of Planning, Analysis, and Statistics (OPAS).
  - OLAP oversees various programs and initiatives aimed at increasing access to legal services and information for indigent and low income individuals and improving the effectiveness of the agency's adjudication processes. These programs include the Legal Orientation Program (LOP), Legal Orientation Program for Custodians of Unaccompanied Children (LOPC), as well as programs designed to reach other vulnerable populations.
  - ◆ The LOP is designed to assist detained individuals in making better informed decisions earlier in their immigration court proceedings, thereby improving access to basic legal services, especially for indigent and low income

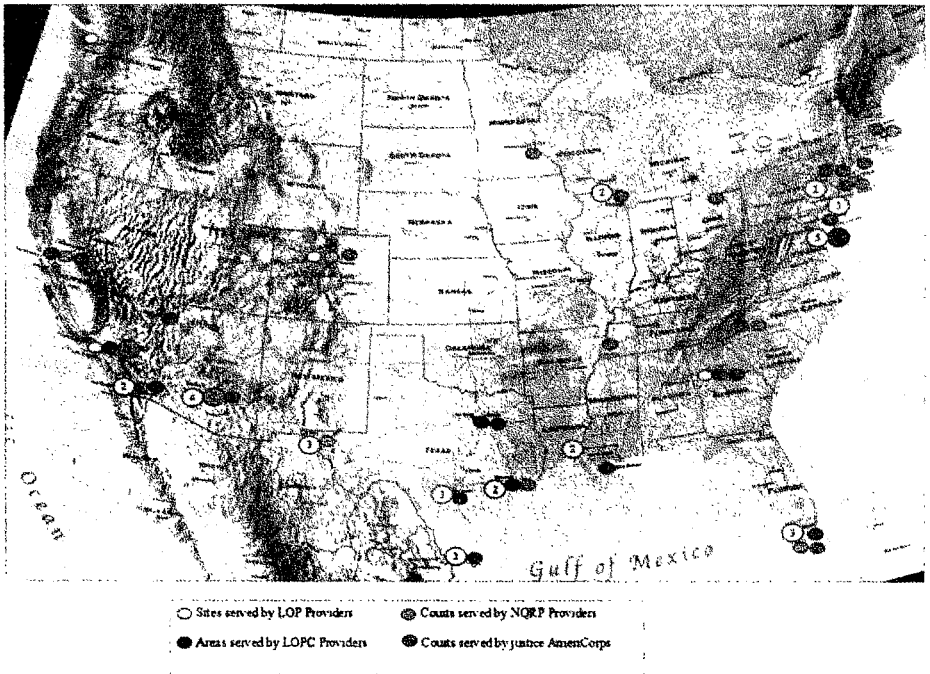


individuals, while increasing the efficiency of the court hearing and detention processes. As of June 1, 2015, the LOP is operating at 30 sites, serving roughly 50,000 individuals per year. Non-governmental organizations carry out the LOP under contract with EOIR. These organizations work closely with local Immigration and Customs Enforcement (ICE) and EOIR personnel to provide group and individual orientations, self-help workshops, and pro bono referral services to detained individuals. Independent research has found the LOP to significantly reduce the average duration of individuals' detained removal proceedings before the immigration court as well as decrease their overall length of time spent in DHS detention.

- ◆ The goals of the LOPC are to improve the appearance rates of non-detained children at their immigration court hearings, and to protect children from mistreatment, exploitation, and trafficking by increasing access to legal and other services. As of June 1, 2015, the LOPC is operating in 14 cities, and in FY 2014 the LOPC served over 12,000 custodians for children who were released from the Department of Health and Human Services' Office of Refugee Resettlement (ORR) custody and scheduled for immigration court hearings. The LOPC also operates the national LOPC call center to provide LOPC scheduling assistance as well as basic legal information to custodians of children who cannot attend a live LOPC.
- ◆ Programs for Vulnerable Populations. EOIR has several programs aimed at improving the effectiveness and efficiency of immigration court proceedings involving unaccompanied alien children. EOIR, in partnership with the Corporation for National and Community Service (CNCS), which operates the AmeriCorps national service program, operate the justice AmeriCorps program to provide legal counsel to certain unaccompanied alien children. The National Qualified Representative Program was created as part of the DOJ and DHS' Nationwide Policy to provide enhanced procedural protections to certain unrepresented and detained respondents with serious mental disorders or conditions. EOIR also created two additional pilot projects to address issues concerning access to representation for children.



- ♦ The below map represents OLAP program locations as of January 2016.



- OPAS conducts EOIR's strategic and long-range planning, and maintains a focus on the outcome of such planning through monitoring the agency's annual performance plans. OPAS is responsible for the production of statistical reports, program analysis, and reporting on the mission-critical goals and objectives established by EOIR's senior management.
- The Office of the General Counsel (OGC) provides legal advice on a wide variety of matters involving EOIR and its employees in the performance of their official duties. OGC staff handle employee labor relations issues for the agency, review and prosecute complaints involving attorney misconduct, coordinate and respond to requests for assistance involving immigration fraud, coordinate the development of agency regulations and forms, provide litigation support to U.S. Attorneys, the Office of Immigration Litigation, and the Solicitor General's Office, coordinate inter-agency activities, and respond to all Freedom of Information and Privacy Act requests.
- The Office of Administration provides administrative and financial management support in the areas of appropriations, budget, contracts, financial management, human resources, and procurement.
- The Office of Management Programs manages several special emphasis and compliance programs, including Security, Logistics, and Space and Facilities Management.



- The Office of Information Technology (OIT) is responsible for the design, development, operations, and maintenance of the complete range of information technology systems supporting EOIR's day-to-day operations.

## ***2. Adjudication of Immigration Cases***

Immigration Court Proceedings Overview: DHS initiates virtually all cases before the immigration courts by charging an individual with potential grounds of removability and issuing a Notice to Appear (NTA) in Immigration Court. Section 240 of the Immigration and Nationality Act (INA) (8 U.S.C. 1229a).

Immigration judges are responsible for conducting formal immigration court proceedings. In removal proceedings, immigration judges determine whether an individual from a foreign country (an alien) should be allowed to enter or remain in the United States or should be removed. Immigration judges also have jurisdiction to consider various forms of relief from removal. If the immigration judge finds the individual to be removable, as charged, the individual can then request several different forms of relief from removal such as asylum and withholding of removal (including protection under the Convention Against Torture), cancellation of removal, voluntary departure, or other forms of relief from removal. Immigration judge decisions are administratively final unless appealed or certified to the BIA.

Some removal proceedings are conducted in prisons and jails as part of the Institutional Hearing Program. In coordination with DHS and correctional authorities across the country, immigration judges conduct hearings to adjudicate the immigration status of alien inmates while they are serving sentences for criminal convictions.

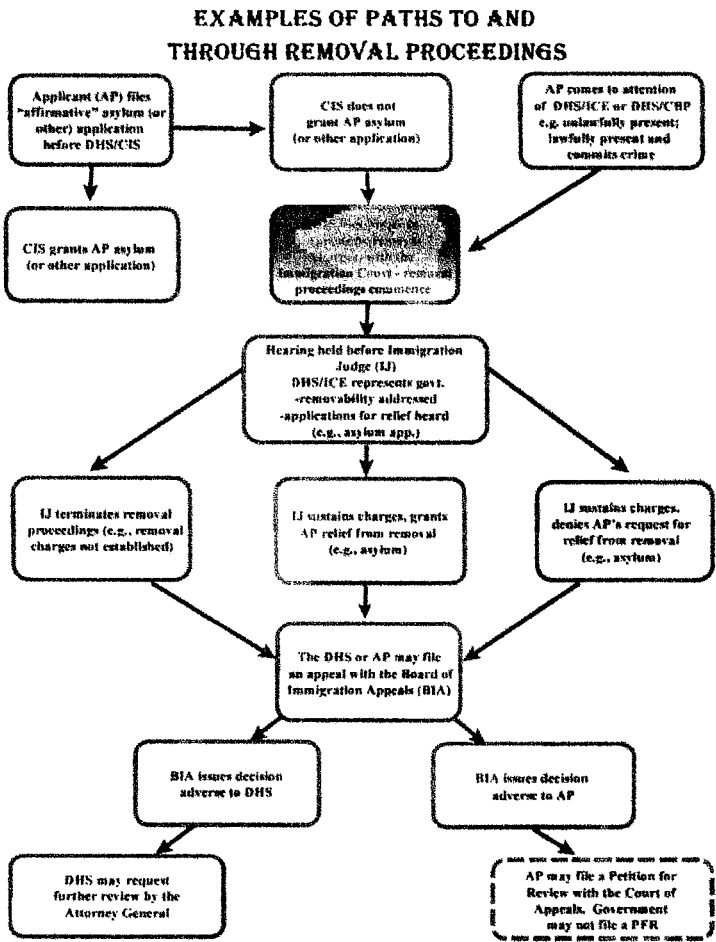
Appellate Review: In most appeals to the BIA, the process begins with the filing of a notice of appeal challenging an immigration judge's decision. The appeal can be filed either by the alien or the Government (which is represented by DHS's Immigration and Customs Enforcement).

When an appeal is filed by either party, the BIA acknowledges receipt of the appeal, transcribes the proceedings (where appropriate), and sets a briefing schedule to allow both parties to present their arguments. Once briefing concludes, the appeal is adjudicated by a panel of one, three, or all Board Members.

If the decision is not published, the decision is binding only on the parties. If the BIA elects to publish the decision, it becomes legal precedent and is binding nationwide. The BIA's decision will stand unless and until modified or overruled by the Attorney General, a federal court, or the BIA itself pursuant to a motion.



The following flowchart details examples of paths to and through removal proceedings.





OCAHO Administrative Hearings: OCAHO cases begin with the filing of a complaint, either by the DHS, Immigration and Customs Enforcement, in employer sanctions and document fraud cases under INA §§ 274A and 274C, respectively, or by private individuals or entities and/or the DOJ, Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, in immigration-related employment discrimination cases under INA § 274B. After the complaint is filed, the respondent is given an opportunity to file an answer. Following the answer, the parties typically file prehearing statements, undertake discovery, and participate in one or more telephonic prehearing conferences with the ALJ. Parties may also engage in settlement negotiations and file dispositive motions with the ALJ. Cases that are not resolved or dismissed proceed to a formal evidentiary hearing, typically held near where the parties reside or the alleged violation(s) occurred. Final decisions and orders issued by the ALJ in employer sanctions and document fraud cases are reviewable by the CAHO and/or the Attorney General. Once a final agency decision has been issued, a party may file an appeal with the appropriate federal circuit court of appeals. Final ALJ decisions in immigration-related employment discrimination cases are not reviewable by the CAHO or the Attorney General; rather, these decisions may be appealed directly to the appropriate federal circuit court of appeals.

### **C. EOIR's 2017 Budget Strategy**

EOIR's immigration courts represent the Department's front-line presence with respect to the application of immigration law. EOIR does not initiate any immigration case. Rather, our cases start when DHS files charging documents with the immigration courts seeking the removal of undocumented immigrants from the United States. It remains critically important that EOIR have sufficient adjudicative resources to keep pace with DHS's enforcement efforts.

The largest challenge facing the immigration courts is the growing pending caseload. At the end of FY 2015, there were more than 457,000 cases pending in immigration courts around the country, by far the largest pending caseload before the agency. The agency's FY 2017 strategy is a sustained focus on increasing our adjudicative capacity in order to meet EOIR's mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws.

EOIR's strategy includes three major areas. First, EOIR is examining and updating, as necessary, its adjudicative priorities in order to best use its resources. In accordance with the President's directives, in FY 2014 EOIR set the adjudication of cases of recent border crossers that fall into the following DHS-identified groups as its top priority: unaccompanied children; adults with children in detention; and adults with children released on "alternatives to detention." Hearings for individuals in detention continue to be processed expeditiously, as they were prior to the announcement of the newly defined priority groups. EOIR is scheduling these cases on the shortest timelines possible without jeopardizing due process. The focus of EOIR's resources on the priority case groups has had an impact on the non-detained, non-priority cases awaiting adjudication, and some of those non-priority cases have been delayed.

Second, EOIR will continue discussions with DHS to gauge the impact of enforcement activities upon the immigration courts and to adjust dockets and resource allocations accordingly. EOIR anticipates that these discussions combined with an increase in resources will allow EOIR to manage its caseload more effectively.



Finally, given the size of the current case backlog EOIR will continue hiring up to authorized levels to fill immigration judge positions and other positions that provide support to the immigration courts in order to achieve more timely adjudication of cases and to systemically reduce the backlog of pending cases.

To implement EOIR's strategy, the request includes program increases totaling \$7.4 million to modernize mission critical systems and to provide for infrastructure improvements.

## **D. Challenges**

### **1. *Internal Challenges***

EOIR faces challenges associated with reaching its newly authorized adjudicative capacity of 374 IJs. The agency was impacted by the Department-wide hiring freeze between January 2011 and February 2014, as well as by normal attrition. As a result the immigration judge corps was reduced from a high of 272 in December 2010 to 235 in April 2015. At the same time that EOIR lost personnel critical to the adjudication of cases, DHS enforcement funding increased, putting more of a strain on EOIR's immigration courts across the country. Additionally, at this time, over half of the immigration judge corps is eligible to retire. Although EOIR has been able to hire additional immigration judges, including 20 who entered on duty in FY 2015, hiring must continue unabated to backfill existing vacancies and to fill new positions.

Although EOIR is intently focused on hiring, the immigration judge hiring process is complex and multifaceted. Since IJ appointees carry the Attorney General's delegated authority to exercise her discretion independently in the cases that come before them, EOIR and the Department must exercise the due diligence required to identify and appoint highly capable immigration judges. In addition to our need to ensure that candidates are well qualified in terms of their familiarity with immigration law and possess necessary character traits to make them a good fit, we also must vet them through a careful and thorough process, which includes a Deputy Attorney General panel and background check prior to the Attorney General appointment. Consequently, the time it takes to hire an IJ from announcement to entrance on duty often does not occur within a single fiscal year. However, EOIR has taken steps to reduce the time to hire by streamlining processes and providing the necessary support staff.

### **2. *External Challenges***

Continued growth in EOIR's caseload represents an additional challenge. EOIR receives virtually all of its workload in the form of cases brought by DHS seeking the removal of aliens from the United States. It remains critically important to balance EOIR's adjudicative resources with DHS's enforcement efforts.

The number of cases pending adjudication rose from 298,088 at the end of FY 2011 to 457,106 at the end of FY 2015, an increase of more than 159,000 cases. This represents a nearly 65 percent increase in cases pending adjudication in five years. In addition, the cases generated by the border surge in the summer of 2014 greatly impacted EOIR's pending caseload. In response to the 2014 Southwest border crisis, EOIR realigned its resources to prioritize the cases of recent



border crossers, including unaccompanied children and adults with children, along with its existing focus of detained cases. As a result, non-priority cases have been delayed.

The pending caseload remains the key challenge for EOIR as its courts continue to receive hundreds of thousands of cases for adjudication each year. Additionally, the BIA's sustained level of approximately 30,000 appeals per year is an extremely large volume for any appellate body.



## Overview for the Office of the Pardon Attorney

For FY 2017, the Office of the Pardon Attorney (OPA) requests a total of \$9,293,000, 52 FTE, and 60 positions, of which 34 are attorneys, to help achieve its mission of advising and assisting the President in the exercise of the pardon power conferred on him by Article II, Section 2 of the Constitution. This request includes a program increase of \$1,163,000, 7 FTE, and 14 positions, of which 7 are attorneys, to help support and accomplish the goals of the Clemency Initiative announced by the Deputy Attorney General in April 2014. The Initiative focuses consideration on commutation applications from low-level, non-violent offenders who have served at least 10 years in prison, have demonstrated good conduct in prison, have no history of violence and no significant criminal history or ties to gangs or large-scale criminal organizations, and if convicted today of the same offenses, would likely receive substantially lower sentences than those they are serving.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>

### 1. Introduction

For over 100 years, the President has requested and received the assistance of the Attorney General and his/her designees in the Department of Justice in exercising his clemency power with regard to persons who have committed offenses against the United States. Within the Department, OPA is the component assigned to carry out this function under the direction of the Deputy Attorney General. The long-standing role of Department officials advising the President on clemency matters is reflected in various public record documents dating to the late 19th century. Moreover, since at least 1898, Presidents have adopted advisory rules to describe their programs for processing clemency applications and their directions to the Attorney General in carrying out the Department's clemency advisory functions. The rules, which govern OPA's work but do not bind the President, are approved by the President and published by the Attorney General. The current version of the administrative rules was promulgated in October 1993 and amended in August and September 2000. They are published in 28 C.F.R. §§ 1.1 to 1.11 and are also available on OPA's web site at <http://www.justice.gov/pardon/clemency.htm>.

The two principal forms of clemency sought by applicants are pardon after completion of sentence and commutation (reduction) of a sentence being served. The traditional standards by which clemency applications are evaluated in connection with the preparation of the Department's letters of advice to the President have been utilized for decades and are publicly available on OPA's web site at <http://www.justice.gov/pardon/petitions.htm>. The criteria for commutation consideration under the Clemency Initiative is also available on the Office's web site at <http://www.justice.gov/pardon/clemency-initiative>.



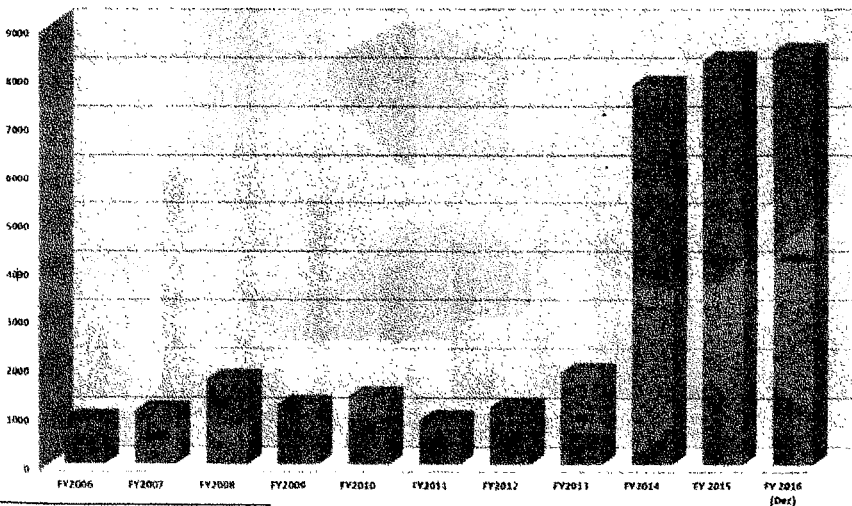
## 2. Program Description

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.

## 3. Challenges

OPA's workload has increased significantly since FY 2007, which was the last fiscal year when its total of new cases received numbered fewer than approximately 2,000. In the eight fiscal years between FY 2008 and FY 2015, OPA received a total of more than 24,797 new petitions for processing, of which 21,563 were petitions for commutation of sentence. The case filings in FY 2014, consisting of 273 pardon applications and 6,561 commutation applications, constituted a historic total of 6,834 new filings in a fiscal year. Throughout this period, OPA's authorized staffing level was 15 positions and 14 FTE—a level that was established for the office in the mid-1990s, when OPA received approximately 600 new cases per fiscal year. Resources provided in recent appropriations and requested in the FY 2017 budget will allow OPA to address the significant backlog in case processing that developed as a result of its greatly increased workload over successive years.<sup>2</sup>

**Clemency Petitions Pending in OPA at the end of a Fiscal Year or Current Fiscal Year**

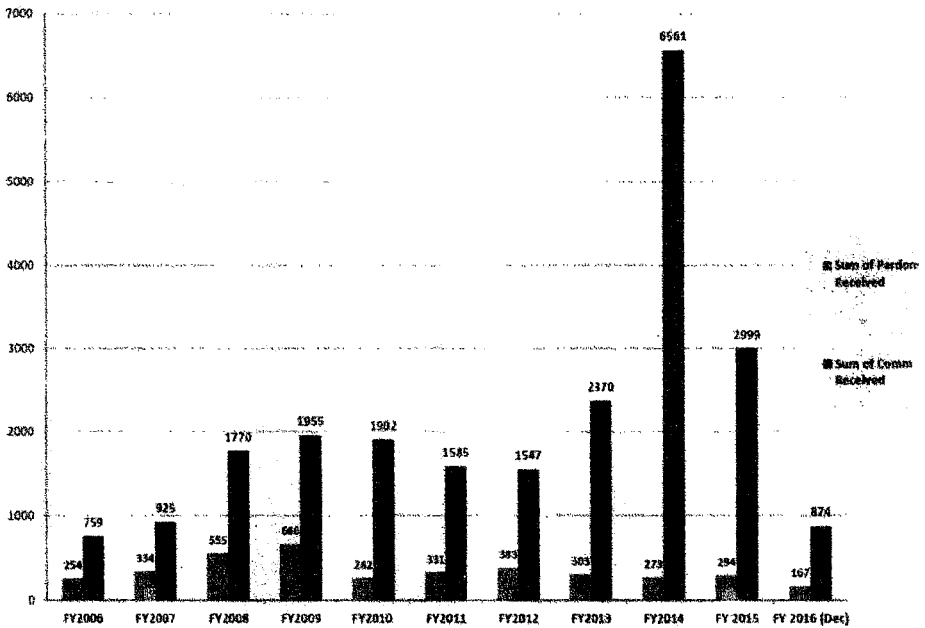


<sup>2</sup> The chart entitled **Clemency Petitions Pending in OPA at the end of a Fiscal year or Current Fiscal Year** shows the backlog of cases OPA had on the last day of each fiscal year for the past ten years and through end of calendar year 2015. This data is unavailable prior to FY 2006.



The announcement of the Department's Clemency Initiative in FY 2014 has resulted in an exponential increase in new case filings for OPA. As of the end of January 2014, when the Deputy Attorney General first outlined plans for the Initiative in a speech to the New York Bar Association, OPA had received only 676 clemency applications for the fiscal year, including 608 commutation petitions. By the end of July 2014, that number had multiplied nearly 10 times to 6,105 clemency petitions, of which 5,916 were commutation requests. Given that trend, OPA expected that its new filings would meet or exceed 7,000 petitions by the end of that fiscal year, driven principally by the submission of requests for commutation of sentence. At the end of FY 2014, OPA's estimation was only short by 166 petitions. Moreover, based on the fact that over 30,000 federal inmates have requested the assistance of pro bono counsel in order to file commutation petitions for consideration under the Initiative, there can be no doubt that OPA will receive many thousands of additional clemency petitions for processing in FY 2016. The office is obliged to process, analyze, and make recommendations on all applications it receives, regardless of whether they are from persons who are eligible to seek executive clemency from the President, and thus has no control over the size of its caseload. The impact of this massive influx of new cases will continue to be felt by the office for many years to come and the additional staff and resources requested for FY 2017 are essential to enable OPA to continue to address the significantly increased workload.<sup>3</sup>

**Clemency Petitions Received from FY 2006 to FY 2016**



<sup>3</sup> The chart entitled **Clemency Petitions Received from FY 2006 to FY 2016** shows the successive increase of commutation petitions received over the past ten years, including the huge influx after the Department's announcement of the 2014 Clemency Initiative.



## II. Summary of Program Changes – Executive Office for Immigration Review

Item Name	Description				Page
	Executive Office for Immigration Review	Pos.	FTE	Dollars (\$000)	
<b>Modernization of Mission Critical Systems</b>	Funding to modernize mission critical case management and related systems and reduce maintenance costs through the phased elimination of paper filings, processing, and retaining documents in electronic form.	0	0	1,706	26
<b>Infrastructure Improvements</b>	Funding for infrastructure improvements and associated building costs to prepare immigration court space for immigration judges and supporting staff.	0	0	5,727	28
<b>Total, EOIR</b>		<b>0</b>	<b>0</b>	<b>\$7,433</b>	

## Summary of Program Changes – Office of the Pardon Attorney

Item Name	Description				Page
	Office of the Pardon Attorney	Pos.	FTE	Dollars (\$000)	
<b>Clemency Initiative</b>	To fund the hiring of additional staff to address the important mission of the Clemency Initiative by advising and assisting the President in the exercise of the executive clemency power.	14	7	\$1,163	30
<b>Total, OPA</b>		<b>14</b>	<b>7</b>	<b>\$1,163</b>	



### III. Appropriations Language and Analysis of Appropriations Language

The FY 2017 budget request includes proposed changes in the appropriations language set forth and explained below. Language proposed for deletion is bracketed. New language is italicized and underlined.

#### Appropriations Language:

##### Administrative Review and Appeals (Including Transfer of Funds)

For expenses necessary for the administration of pardon and clemency petitions and immigration-related activities, [\$436,893,000] *\$437,444,000*, of which \$4,000,000 shall be derived by transfer from the Executive Office for Immigration Review fees deposited in the "Immigration Examinations Fee" account. *Provided*, that, of the amount available for the Executive Office for Immigration Review, not to exceed \$15,000,000 shall remain available until expended.



#### IV. Program Activity Justification

##### A. Executive Office for Immigration Review (EOIR)

<i>Executive Office for Immigration Review</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$\$\$)</b>
2015 Enacted	1,793	1,349	347,154
2016 Enacted	2,138	1,667	420,283
Adjustments to Base and Technical Adjustments	0	165	435
2017 Current Services	2,138	1,832	420,718
2017 Program Increases	0	0	7,433
2017 Request	2,138	1,832	428,151
<b>Total Change 2016-2017</b>	<b>0</b>	<b>165</b>	<b>0</b>
<i>Executive Office for Immigration Review- Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$\$\$)</b>
2015 Enacted	23	23	46,372
2016 Enacted	39	39	54,606
Adjustments to Base and Technical Adjustments	0	0	0
2017 Current Services	39	39	48,382
2017 Program Increases	0	0	0
2017 Request	39	39	48,382
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>6,224</b>

##### 1. Program Description

The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.



## 2. Performance and Resources Tables

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Executive Office for Immigration Review											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Workload: Immigration Court Proceedings Received1 Appeals Received at BIA Immigration Court Proceedings Pending Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	
		1,480	347,154	1,349	347,154	1,667	420,263	165	7,868	1,832	
PERFORMANCE		FY 2015		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
TYPE	STRATEGIC OBJECTIVE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	
		1,480	347,154	1,349	347,154	1,667	420,263	165	7,868	1,832	
Program Activity	3.7 Adjudicate Immigration Cases										
Performance Measure: Output	Immigration Courts										
	Total Matters Completed2	285,000		262,293		390,268		33,000		413,268	
	Total Proceedings Completed3	203,000		198,887		370,525		33,000		403,525	
	IHP Completions	4,870		2,911		4,878		NA		4,878	
Performance Measure: Efficiency	% of Immigration Appeals Completed	63,000		50,480		52,621		NA		52,621	
	Total Appeals Completed	38,500		34,244		37,222		5,000		42,222	
	Completions	4,760		4,398		4,765		NA		4,765	
	Immigration Courts										
Performance Measure: Outcome	% IHP Cases within Time Goal	85%		79%		85%				85%	
	% Detained Cases within Time Goal	80%		-		80%				80%	
	% Detained Cases Adjudicated with Time Goal	-		-		-				-	
		90%		96%		90%				90%	
Definition: The Executive Office for Immigration Review (EOIR) has identified two types of Immigration court cases (institutional). The IHP is collaborative effort between EOIR and one type of non-federal agency (DHS) and various federal, state, and local corrections agencies. The IHP permits Immigration judges to hold removal hearings inside correctional institutions prior to the alien completing his or her criminal sentence.											
Data Validation, Verification, and Limitations: Data are collected from the Case Access System for EOIR (CASE), a nationwide case-tracking system at the trial and appellate levels. Court staff nationwide enters data, which are electronically transmitted and stored at EOIR headquarters, allowing for timely and complete data collection. Data are verified by on-line staff of data fields. Headquarters and field office staff use routine daily, weekly, and monthly reports that verify data. Data validation is also performed on a routine basis through data comparisons between EOIR and DHS databases. There are no data limitations known at this time.											

<sup>1</sup> For an explanation of these terms, please reference our statistical yearbook.

<sup>2</sup> Prior to FY 2014, EOIR captured the following information as part of "total matters completed": all proceeding completions (if a case moved from one court to another court a completion was counted at each court), all bond completions, and all motion to reopen or motion to reconsider completions. In FY 2014 EOIR changed the way it counts this workload measure. For the numbers reflected in this table "total matters completed" includes all case completions, all bond completions, and motion to reopen, motion to reconsider, and motion to recalendar completions that were not granted. Changes of venue and transfers are no longer counted.

<sup>3</sup> Definition: The Executive Office for Immigration Review (EOIR) has identified two types of immigration court cases (institutional hearing program (IHP) and detained cases) and one type of Board of Immigration Appeals (BIA) case (detained appeals) as case types for performance measurement. The IHP is a collaborative effort between EOIR, the Department of Homeland Security (DHS) and various federal, state, and local corrections agencies. The IHP permits immigration judges to hold removal hearings inside correctional institutions prior to the alien completing his or her criminal sentence. Data Validation, Verification, and Limitations: Data are collected from the Case Access System for EOIR (CASE), a nationwide case-tracking system at the trial and appellate levels. Court staff nationwide enters data, which are electronically transmitted and stored at EOIR headquarters, allowing for timely and complete data collection. Data are verified by on-line audits of data fields. Headquarters and field offices conduct data validation. There are no data limitations known at this time. Data validation is also performed on a routine basis through data comparisons between EOIR and DHS databases.



<sup>1</sup> Prior to FY 2014, if an individual changed venue or was transferred, the court would count a completion. In FY 2014 EOIR changed the way it counts this workload measure. For the numbers reflected in this table, EOIR counts initial proceeding completions as well as subsequent proceeding completions. Changes of venue and transfers are no longer be counted

PERFORMANCE MEASURE TABLE												
Strategic Objective	Executive Office for Immigration Review											
	Performance Report and Performance Plan Targets											
	FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016	
	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target
3.7	393,397	392,062	392,062	390,000	390,000	248,078	248,078	285,000	392,062	390,268	413,268	413,268
	302,577	289,406	289,406	294,846	294,846	184,322	184,322	203,000	192,887	370,525	403,525	403,525
	3,782	3,670	3,670	3,678	3,678	4,332	4,332	4,870	2,911	4,876	4,876	4,876
	112,164	89,960	89,960	94,868	94,868	57,842	57,842	69,500	50,460	52,521	52,521	52,521
	35,271	36,381	36,381	36,000	36,000	30,922	30,922	38,500	34,344	37,222	37,222	37,222
	4,212	4,559	4,559	4,646	4,646	4,677	4,677	4,760	4,366	4,765	4,765	4,765
	88%	87%	87%	85%	85%	78%	78%	85%	78%	85%	85%	85%
	88%	88%	88%	85%	85%	74%	74%	80%	71%	80%	80%	80%
	94%	94%	97%	90%	90%	93%	93%	90%	80%	90%	90%	90%

N/A = Data unavailable

4 All individual Hearing Program cases completed during the time period.

5 All initial case completions for detained individuals. This does not include change of venue or transfers. In addition, it does not include cases that have been reopened or remanded from the Board of Immigration Appeals

6 All appeals completed for detained individuals.

\* Numbers below concerning completions represent estimated numbers completions.



### 3. Performance, Resources, and Strategies

EOIR's adjudication functions are part of the government's broader immigration and border control programs. As such, EOIR's ability to adjudicate cases involving individuals housed in DHS detention space in a timely fashion allows EOIR to aid in the efficient utilization of DHS detention space. The guarantee of fairness and due process, including for those individuals in detention, remains a cornerstone of our judicial system, and EOIR's role in granting relief from removal in meritorious cases, and in the denial of relief from removal in others, helps assure the integrity of the overall process.

#### a. Performance Plan and Report for Outcomes

For the immigration courts, EOIR chose two priority case types as performance measures and set the following goals:

- 85% of Institutional Hearing Program (criminal aliens) cases completed before release from incarceration; and
- 80% of detained cases completed within 60 days.

In FY 2015, the immigration courts did not meet these two priority targets but continue to reallocate resources to strive to complete these priority cases in a timely fashion. The goal in FY 2017 will remain the same for both of these measures.

The performance measure for the BIA is:

- 90% of detained appeals adjudicated within 150 days.

In FY 2015, the BIA exceeded this target by 5%. This performance measure will continue through FY 2016 and FY 2017.

To summarize, the FY 2017 target is to complete EOIR's priority adjudications within established timeframes.

#### b. Strategies to Accomplish Outcomes

Case adjudication is the performance indicator for EOIR. Performance measures (the number of cases completed) have been established for several high priority case types.

EOIR has established case completion goals for the various types of cases that the immigration courts adjudicate. In addition, in accordance with Presidential directives, EOIR will continue to reallocate existing resources to the adjudication of priority cases including the four new priorities resulting from the recent influx of juveniles, adults with children, and recent border crossers. This includes adjusting court dockets to consolidate the amount of hearing time devoted to detained cases and to quickly scheduling first hearings for the cases of unaccompanied children and adults with children.

EOIR is moving ahead with its plans to transition from paper to electronic records. When fully implemented, this initiative will improve efficiency throughout the adjudication process. For



example, data from electronically filed documents will be automatically uploaded to EOIR's database, thus decreasing data entry time; electronic Records of Proceedings (ROPs) will be available for immediate access by staff who need to use them, eliminating the time spent waiting for files; and digitally recorded hearings can be made available to transcribers instantly rather than mailing audio tapes back and forth.



**B. Office of the Pardon Attorney**

<i>Office of the Pardon Attorney</i>	<b>Direct Pos.</b>	<b>Estimated FTE</b>	<b>Amount</b>
2015 Enacted	22	18	3,918
2016 Enacted	46	33	6,508
Adjustments to Base and Technical Adjustments	0	12	1,622
2017 Current Services	46	45	8,130
2017 Program Increases	14	7	1,163
2017 Request	60	52	9,293
<b>Total Change 2016-2017</b>	<b>14</b>	<b>19</b>	<b>2,785</b>

**1. Program Description**

The primary function of OPA is to receive, evaluate, and investigate clemency applications and prepare the recommendation of the Department of Justice as to the appropriate disposition of each application for the signature of the Deputy Attorney General. In addition, OPA responds to inquiries concerning executive clemency petitions and the clemency process from applicants, their representatives, members of the public, Members of Congress, and various federal, state, and local officials and agencies; prepares all necessary documents to effect the President's decision to grant clemency; and notifies each clemency applicant of the President's decision concerning his or her clemency request. When asked to do so, OPA also provides general advice to the White House concerning executive clemency procedures and the historical background of clemency matters.



2. Performance and Resource Tables

TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2015		FY 2016		FY 2016		FY 2016		FY 2016		FY 2017 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity														
Performance Measure: Output	2.6	Processing clemency petitions	18	3,918	18	3,918	19	3,918	19	2,785	52	9,293		
Performance Measure: Outcome		Number of petitions processed	1,700		2,120		3,500				4,000			
Performance Measure: Outcome		Number petitions pending at OPA	6,800		8,287		7,000				6,500			
Performance Measure: Outcome		Number of correspondence responses	N/A		N/A		2,400				2,500			
Data Definition, Validation, Verification, and Limitations: OPA's automated case tracking and processing system is updated daily and used extensively to track the status of clemency petitions and correspondence. Performance data derived therefrom are cross-referenced with manual reports to ensure accuracy.														



Strategic Objective	Performance Report and Performance Plan Targets	FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Actual		Actual		Actual		Actual		Target		Target		Target	
2.6	Performance Measure	2,409		1,669		1,962		1,079		1,700		3,500		4,000	
	Performance Measure	Clemency petitions processed		2,361		N/A		N/A		N/A		2,400		2,500	
	Efficiency Measure	Correspondence processed		N/A		N/A		N/A		N/A		N/A		N/A	
	OUTCOME Measure	Performance measure is efficiency measure		N/A		N/A		N/A		N/A		N/A		N/A	
		Petitions pending at OPA		895		1,867		7,790		6,800		7,000		6,500	

NOTE: The FY 2015 Petitions Pending at OPA Target was revised at time of enactment from the level of 10,000 stated in the FY 2016 President's Budget to a target of 6,800. The revised target more accurately reflected the rate of petitions received from the Clemency Project 2014 and the plan to reduce pending petitions in FY 2015.



### 3. Performance, Resources, and Strategies

#### a. Performance Plan and Report for Outcomes

Because OPA's sole mission is to assist the President in the exercise of the clemency power, its performance measure is the number of clemency petitions it processes during a given fiscal year. Likewise, the Office's outcome measure is the number of clemency petitions that remain pending at the end of the fiscal year. In FY 2009, OPA set its annual targets for both measures at 1,500 cases, and it consistently exceeded both targets through FY 2012. In FY 2013, OPA exceeded its target for petitions processed, but it missed the target for petitions pending at the end of the fiscal year due to the uncommonly large number of new filings it received (2,673 total applications). In light of that historic number of filings, OPA increased its petitions pending target to 1,800 cases for FY 2014. However, the Office was unable to meet its outcome measure target for cases pending at the end of the fiscal year. The degree to which the Office will be able to meet its annual cases-pending outcome target will depend significantly on the volume of new petitions filed in upcoming fiscal years and how quickly OPA can bring new staff on board to work through the high cumulative number of petitions filed in the last few fiscal years.

OPA's ability to achieve its targets has been adversely affected by the cumulative effect of the uncommonly large number of petitions it received in FY 2013 and, especially, by the influx of commutation petitions submitted in FY 2014 as a result of the announcement of the Clemency Initiative. As OPA's existing staff has discovered, expending the substantial resources required simply to manage such a volume of clemency requests significantly decreases those available for analyzing and evaluating the merits of individual applications and preparing the appropriate letters of advice to inform the President. This problem will become substantially more acute in FY 2016, as more and more commutation petitioners file applications in the expectation that they will be decided before the end of the current Administration. Given the many thousands of inmates (over 30,000) who already have requested legal assistance from the consortium of defense attorneys formed to provide pro bono representation to potential applicants under the Initiative, there can be no doubt that the numbers of commutation petitions filed by the end of FY 2016 will be extraordinary and that the cumulative effect of such filings will be especially challenging in FY 2017.

Accordingly, OPA's need for additional resources in FY 2017 is essential. The number of petitions the Office can reasonably expect to process to completion during FY 2017 depends critically upon the number of additional staff OPA ultimately is able to hire in FY 2016 and how quickly they can be brought on board and trained in commutation evaluation.

#### b. Strategies to Accomplish Outcomes

Building upon the resources enacted in FY 2016, which includes an additional 16 attorneys, 5 paralegals, and 3 administrative support staff members, OPA's request for FY 2017 includes an additional 7 attorneys, 6 paralegals, and 1 administrative staff. Once they are onboard, these additional personnel will bring OPA's total staffing complement to 60, including 34 attorneys and 26 non-attorneys.

Because of the electronic case processing and tracking system OPA uses to manage its workload, paralegal and administrative staff are crucial to the efficient processing of clemency petitions.



The myriad tasks they fulfill include opening cases and scanning files; obtaining necessary records from outside agencies such as the Bureau of Prisons and United States Probation Offices and adding them to electronic case files; flagging substantive issues for attorneys; assisting with the production and dissemination of requests for comments from United States Attorneys and sentencing judges, tracking and responding to mail and e-mail inquiries from petitioners, their representatives, third parties, and government entities; preparing packages of letters of advice for transmittal to the Office of the Deputy Attorney General and the White House; continuously updating electronic case files and tracking cases from beginning to end; preparing notices of decision after the President has acted; closing case files; preparing and cross-checking caseload reports; managing Freedom of Information Act requests and responses; drafting responses to White House mail on clemency related inquiries for the signature of the Pardon Attorney; and maintaining clemency statistics.

The additional attorney positions requested for FY 2017 are essential to OPA's effort to make substantial progress on the enormous caseload that has developed since the announcement of the 2014 Clemency Initiative and will grow over the next fiscal year. Many of these cases will raise complex legal issues, since the Clemency Initiative criteria require the determination of whether a petitioner's sentence would be different if imposed under current law. Given the volume of cases OPA is expected to receive and process under the Initiative, it is extremely important that the office have on staff as large a cadre of experienced clemency attorneys as possible to evaluate the merits of incoming petitions and draft cogent, legally correct letters of advice to assist the President's decision-making.



## V. Program Increases by Item

<b>Item Name:</b>	<b><u>Modernization of Mission Critical Systems</u></b>
<b>Budget Decision Unit:</b>	Executive Office for Immigration Review
<b>Strategic Goal &amp; Objective:</b>	3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.
<b>Organizational Program:</b>	Immigration Adjudications
<b>Program Increase:</b>	Positions 0 Agt/Atty 0 FTE 0 Dollars \$1,706,000

### Description of Item

This increase will provide EOIR with needed funds to modernize mission critical case management and related systems.

### Justification

EOIR is undertaking a multi-year effort to modernize the current case management and related electronic systems that support EOIR in achieving its mission. The EOIR Court and Appeals Systems program has been established to modernize these systems and reduce maintenance costs through the phased elimination of paper filings, processing, and retaining all records and documents in electronic form. By leveraging industry best practices, EOIR will work to build a next-generation Web-based system that tracks, displays, and manages immigration-related records; routes immigration-related documents for the appropriate approvals/decisions; provides improved access to select immigration data; allows for electronic filing and payment; delivers statistics and reports for enhanced court management; and allows for the intergovernmental secure transfer of data. These modernizations will, when implemented, improve internal management tools and create external efficiencies for respondents and government attorneys alike. Increased funding would allow EOIR to speed the timeline to develop and implement the new systems and realize the associated improvements and efficiencies.

### Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.



**Modernization of Mission Critical Systems  
Funding**

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	\$800	0	0	0	\$800

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization
Modernization of Mission Critical Systems			\$1,706	
Total Non-Personnel			\$1,706	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total	FY 2018 Net Annualization
Current Services	0	0	0	0	\$800	\$800	
Increases	0	0	0	0	1,706	1,706	
Grand Total	0	0	0	0	\$2,506	\$2,506	



<b>Item Name:</b>	<b>Infrastructure Improvements</b>
<b>Budget Decision Unit:</b>	Executive Office for Immigration Review
<b>Strategic Goal &amp; Objective:</b>	3.7: Adjudicate all immigration cases promptly and impartially in accordance with due process.
<b>Organizational Program:</b>	Immigration Adjudications
<b>Program Increase:</b>	Positions 0   Agt/Atty 0   FTE 0   Dollars \$5,727,000

#### Description of Item

This increase will provide EOIR with needed funds to complete necessary infrastructure improvements and associated building costs.

#### Justification

EOIR requests an increase in funding in FY 2017 to complete facility and courtroom expansion for judges and staff associated with the additional 55 immigration judge (IJ) teams provided in the FY 2016 Appropriation. Courtroom space has unique and specific building requirements, particularly associated with the public seating area and the litigation area. Specifically, each courtroom must have sufficient square footage to accommodate seating for the public as well as a security gate to separate the two areas, and the litigation area must have a raised dais for the IJ, a witness stand, and tables for the respondent and government representative. In addition to courtroom space, the court function also requires typical office space for the IJs and work space for supporting staff, as well as other typical office needs (e.g., open and closed file rooms and internal break and restroom facilities). Without this necessary physical space for hearings, EOIR cannot accommodate the members of the public who must appear before our judges, nor will it adequately support the immigration judges and support staff entering on duty through current hiring. EOIR expects to undertake the planning and acquisition process for these infrastructure improvements during FY 2016. The requested funding in FY 2017 will allow EOIR to prepare immigration court space where these facilities are most needed to best meet the agency mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws.

#### Impact on Performance (Relationship of Increase to Strategic Goals)

This initiative ties directly to Strategic Objective 3.7 and to Congress and the Administration's immigration priorities.



**Infrastructure Improvements  
Funding**

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	0	0	0	0	0

\*Base resources specific to the FY 2017 infrastructure enhancement request do not exist.

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization
Total Personnel				

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization
Infrastructure Improvements			\$5,727	
Total Non-Personnel			\$5,727	

Total Request for this Item

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total	FY 2018 Net Annualization
Current Services	0	0	0	0	0	0	
Increases	0	0	0	0	\$5,727	\$5,727	
Grand Total	0	0	0	0	\$5,727	\$5,727	



<b>Item Name:</b>	<b>Clemency Initiative</b>
<b>Budget Decision Unit:</b>	Office of the Pardon Attorney
<b>Strategic Goal:</b>	Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
<b>Strategic Objective:</b>	Objective 2.6: Protect the federal fisc and defend the interests of the United States
<b>Organizational Program:</b>	Executive clemency advisory program
<b>Program Increase:</b>	Positions <u>14</u> Agt/Atty <u>7</u> FTE <u>7</u> Dollars <u>\$1,163,000</u>

#### Description of Item

This request includes funding for 14 additional positions, consisting of 7 attorneys, 6 paralegals, and 1 administrative support position to enhance OPA's effort to review and prepare recommendations concerning the Clemency Initiative announced by the Deputy Attorney General in 2014.

#### Justification

The requested program increase for FY 2017 is essential to OPA's effort to meet the challenging task set by the Department's implementation of the 2014 Clemency Initiative. Given the historic numbers of commutation applicants who have already applied for clemency and who have indicated their desire to do so with the assistance of pro bono counsel, OPA will be unable to keep pace with the expected influx of petitions during the next fiscal year unless it receives the requested additional resources. OPA is obliged to process all clemency petitions it receives from persons who are eligible to seek clemency from the President. Even with the benefit of the additional resources appropriated in FY 2016, the Office will require additional staff to manage the expected increase in the commutation caseload, conduct the necessary review of petitions, and supervise the preparation of recommendations for the thousands of petitions that will be filed. This enhancement will fund the Office's attorney and paralegal resources required to identify and present for the President's consideration candidates for commutation of sentence who meet the criteria of the Initiative.

#### Impact on Performance

OPA's mission supports Strategic Goal 2.6, which encompasses the Department's responsibility "to support the Attorney General in her role as legal adviser to the President" including "advising the President concerning the appropriate disposition of applications for executive clemency." As of the end of FY 2015, OPA is faced with a backlog of over 8,000 cases that undoubtedly will grow. During the past two administrations, the President's final year in office witnessed a significant spike in the numbers of clemency petitions filed. The same effect is certain to be seen in FY 2016 as thousands of commutation petitioners seek consideration under the Clemency Initiative. These factors will inevitably lead to a continuing backlog of cases. The size of the backlog by the end of FY 2017 depends in great part on the level of resources made available to OPA to meet this challenge.



OPA will continue to track its performance by monitoring the number of petitions it processes and the number of petitions that remain pending, which still need to be reviewed and analyzed for recommendations to be written. With additional attorney and paralegal resources, the office expects to be able to increase significantly its productivity and efficiency in processing petitions. Once all of the requested additional positions are filled and new personnel are fully trained, OPA projects that it would be able to increase its case processing target to 4,000 cases for FY 2017. It will take many years, however, to work through the backlog that will only increase as the tens of thousands of inmates who have been notified that they will not receive pro bono legal assistance begin submitting their clemency petitions directly to OPA for consideration.



**Clemency Initiative  
Funding**

Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
22	11	18	3,918	46	27	33	6,508	46	27	45	8,130

Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	2 <sup>nd</sup> Year Annualization	2 <sup>nd</sup> Year FY 2018 Net Annualization (change from 2017) (\$000)
Clerical and Office Services (0300-0399) (GS- 11)	\$56	3	\$168	\$67	\$184
Attorneys (0905) (GS-14)	\$93	7	\$651	\$86	\$605
Paralegals / Other Law (0900-0999) (GS-9)	\$47	4	\$190	\$51	\$206
<b>Total Personnel</b>		14	\$1,009	\$216	\$995

Non-Personnel Increase Cost Summary

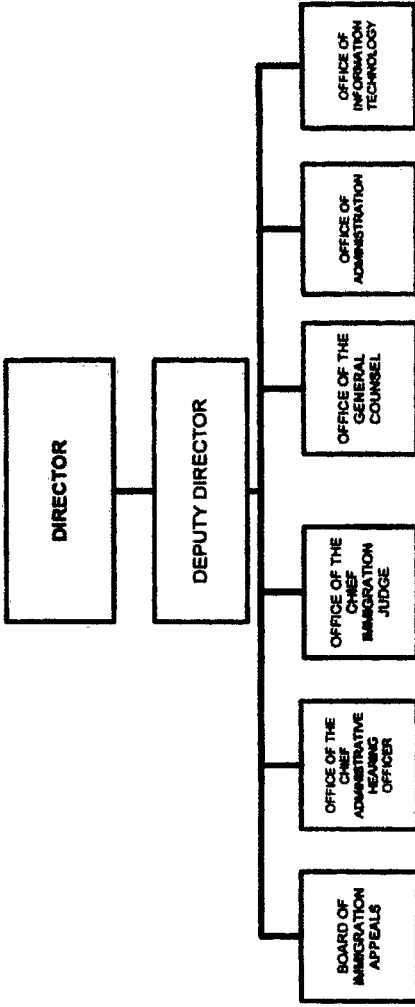
Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Build out			\$154	-\$154
<b>Total Non-Personnel</b>			\$154	-\$154

Total Request for this Item

	Pos	Ag t/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	46	27	45	\$8,130	\$0	\$8,130	\$995
Increases	14	7	7	\$1,009	\$154	\$1,163	-\$154
<b>Grand Total</b>	<b>60</b>	<b>34</b>	<b>52</b>	<b>\$9,139</b>	<b>\$154</b>	<b>\$9,293</b>	<b>\$841</b>



EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

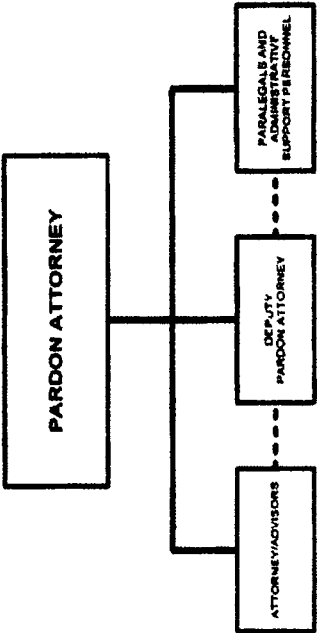


Approved by: *Eric H. Holder, Jr.* Date: January 28, 2015  
ERIC H. HOLDER, JR.  
Attorney General



A: Organizational Chart

OFFICE OF THE PARDON ATTORNEY



Approved by   
S. J. HOLDER, JR.  
Attorney General

Date 5/16/13



Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request	
	Direct Pos.	Estimate FTE Amount
<b>2015 Enacted 1/</b>	<b>1,815</b>	<b>1,369</b>
<b>Total 2015 Enacted</b>	<b>1,815</b>	<b>1,369</b>
<b>2016 Enacted</b>	<b>2,184</b>	<b>1,700</b>
<b>Technical Adjustments</b>		
EOIR - DHS Exam Fee	0	0
<b>Total Technical Adjustments</b>	<b>0</b>	<b>0</b>
<b>Base Adjustments</b>		
Transfers:		
Transfers - Immigration Examination Fee - From DHS to EOIR	0	0
Pay and Benefits	0	177
Domestic Rent and Facilities	0	0
<b>Total Base Adjustments</b>	<b>0</b>	<b>177</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>177</b>
<b>2017 Current Services</b>	<b>2,184</b>	<b>1,877</b>
<b>Program Changes</b>		
Increases:		
Modernization of Mission Critical Systems	0	0
Infrastructure Improvements	0	0
Clemency Initiative	14	7
Subtotal, Increases	14	7
<b>Total Program Changes</b>	<b>14</b>	<b>7</b>
<b>2017 Total Request</b>	<b>2,198</b>	<b>1,884</b>
<b>2016 - 2017 Total Change</b>	<b>14</b>	<b>184</b>
		<b>437,444</b>
		<b>10,653</b>

1/ FY 2015 FTE is actual



**Summary of Requirements**  
**Administrative Review and Appeals**  
 Salaries and Expenses  
 (Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Executive Office for Immigration Review	1,793	1,349	347,154	2,138	1,667	420,283	0	165	435	2,138	1,832	420,718
Office of the Pardon Attorney	22	20	3,918	46	33	6,508	0	12	1,622	46	45	8,130
<b>Total Direct</b>	<b>1,815</b>	<b>1,369</b>	<b>351,072</b>	<b>2,184</b>	<b>1,700</b>	<b>426,791</b>	<b>0</b>	<b>177</b>	<b>2,057</b>	<b>2,184</b>	<b>1,877</b>	<b>428,848</b>
Balance Rescission				0		0			0			0
<b>Total Direct with Rescission</b>			<b>351,072</b>			<b>426,791</b>			<b>2,057</b>			<b>428,848</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>1,369</b>			<b>1,700</b>			<b>177</b>			<b>1,877</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>1,369</b>			<b>1,700</b>			<b>177</b>			<b>1,877</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Executive Office for Immigration Review	0	0	7,433	0	0	0	2,138	1,832	428,151
Office of the Pardon Attorney	14	7	1,163	0	0	0	60	52	9,293
<b>Total Direct</b>	<b>14</b>	<b>7</b>	<b>8,596</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,198</b>	<b>1,884</b>	<b>437,444</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>8,596</b>			<b>0</b>			<b>437,444</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>7</b>			<b>0</b>			<b>1,884</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>7</b>			<b>0</b>			<b>1,884</b>	



Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Administrative Review and Appeals				Total Increases			
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE	Amount
Modernization of Mission Critical Systems	Page 26	0	0	0	1,706	0	0	0	1,706
Infrastructure Improvements	Page 28	0	0	0	5,727	0	0	0	5,727
Clemency Initiative	Page 30	14	0	7	1,163	14	0	7	1,163
<b>Total Program Increases</b>		<b>14</b>	<b>0</b>	<b>7</b>	<b>8,596</b>	<b>14</b>	<b>0</b>	<b>7</b>	<b>8,596</b>



**Resources by Department of Justice Strategic Goal and Objective**  
Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>																		
2.6 Protect the federal fisc and defend the interests of the United States	20	3,918		33	6,508	45		8,130		7	1,163			0	0	52		9,293
Subtotal, Goal 2	20	3,918		33	6,508	45		8,130		7	1,163			0	0	52		9,293
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>																		
3.7 Adjudicate all immigration cases promptly and impartially in accordance with due process.	1,349	347,154	1,667	1,667	420,283	1,832		420,718		0	7,433			0	0	1,832		428,151
Subtotal, Goal 3	1,349	347,154	1,667	1,667	420,283	1,832		420,718		0	7,433			0	0	1,832		428,151
<b>TOTAL</b>	<b>1,369</b>	<b>351,072</b>	<b>1,700</b>	<b>1,700</b>	<b>426,791</b>	<b>1,877</b>		<b>428,848</b>		<b>7</b>	<b>8,596</b>			<b>0</b>	<b>0</b>	<b>1,884</b>		<b>437,444</b>



**Justifications for Technical and Base Adjustments**  
**Administrative Review and Appeals**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

	Direct Pos.	Estimate FTE	Amount
<b>Technical Adjustments</b>			
1 Transfer from Immigration Examination Fees collected by DHS	0	0	-4,000
<b>Subtotal, Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>-4,000</b>
<b>Transfers</b>			
1 DHS Immigration Examination Fee Account	0	0	4,000
<b>Subtotal, Transfers</b>	<b>0</b>	<b>0</b>	<b>4,000</b>
<b>Pay and Benefits</b>			
1 2017 Pay Raise - 1.6% This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount request, \$2,881,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits.	0	0	2,881
2 Annualization of 2016 Pay Raise This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested, \$615,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits.	0	0	615
3 Annualization of 2016 Positions Personnel: This provides for the annualization of new positions appropriated in 2016. Annualization of new positions extends up to 2 years to provide entry level funding in the first year, with a 1 or 2 year progression to a journeyman level. For 2016 increase, this request includes an increase of \$5,220,036 for full-year payroll costs associated with these additional positions. Non-Personnel: This request includes a decrease of \$8,983,036 for one-time items associated with the new positions, for a net of -\$3,773,000.	0	177	-3,773
4 Changes in Compensable Days The decreased cost for two compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation and applicable benefits by 262 compensable days and then multiplying by two is -\$1,793,000.	0	0	-1,793
5 Employees Compensation Fund Employees Compensation Fund	0	0	-105
6 Health Insurance Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3 percent. Applied against the 2016 estimate of \$13,147,000, the additional amount required is \$397,000.	0	0	397



**Justifications for Technical and Base Adjustments**  
**Administrative Review and Appeals**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

	Direct	Estimate	Amount
	Pos	FTE	
<b>7 Retirement</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$109,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	109
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>177</b>	<b>-1,669</b>
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$4,143,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	4,143
<b>2 Guard Service</b> This included Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$344,000 is required to meet these commitments.	0	0	344
<b>3 Moves - FY 2016 Non-Recur</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This is the non-recurrence of the move costs associated with new office relocations provided in the FY 2016 Presidents Budget.	0	0	-2,938
<b>4 Moves - FY 2017</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017..	0	0	2,177
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>3,726</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>177</b>	<b>2,057</b>



**Administrative Review and Appeals**  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount			Direct Pos.	Actual FTE	Amount
Executive Office for Immigration Review	1,793	1,349	347,154	0	0	-118	0	0	1,793	1,349	347,036
Office of the Pardon Attorney	22	20	3,918	0	0	0	0	0	22	20	3,918
<b>Total Direct</b>	<b>1,815</b>	<b>1,369</b>	<b>351,072</b>	<b>0</b>	<b>0</b>	<b>-118</b>	<b>0</b>	<b>0</b>	<b>1,815</b>	<b>1,369</b>	<b>350,954</b>
Balance Rescission			0			0		0			0
Total Direct with Rescission			351,072			-118		0			350,954
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		1,369			0					1,369	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>1,369</b>			<b>0</b>					<b>1,369</b>	

**Reprogramming/Transfers:**  
JUST for \$118K

**Carryover:**

**Recoveries/Refunds:**



**Crosswalk of 2016 Availability**  
Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Direct Pos.	Est. FTE	Amount
Executive Office for Immigration Review	2,138	1,667	420,283	0	0	0	0	0	2,138	1,667	420,283
Office of the Pardon Attorney	46	33	6,508	0	0	0	0	0	46	33	6,508
<b>Total Direct</b>	<b>2,184</b>	<b>1,700</b>	<b>426,791</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,184</b>	<b>1,700</b>	<b>426,791</b>
Balance Rescission			0			0	0	0	0		0
Total Direct with Rescission			426,791			0	0	0			426,791
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		1,700			0					1,700	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total FTE</b>		<b>1,700</b>			<b>0</b>					<b>1,700</b>	

**Reprogramming/Transfers:**

**Carryover:**

**Recoveries/Refunds:**



Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Executive Office for Immigration Review	0	0	128	0	0	20	0	0	0	0	0	-20
Office of the Pardon Attorney	0	0	324	0	0	111	0	0	0	0	0	-111
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>452</b>	<b>0</b>	<b>0</b>	<b>131</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-131</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Executive Office for Immigration Review	0	0	128	0	0	20	0	0	0	0	0	-20
Office of the Pardon Attorney	0	0	324	0	0	111	0	0	0	0	0	-111
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>452</b>	<b>0</b>	<b>0</b>	<b>131</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-131</b>



**Detail of Permanent Positions by Category**  
**Administrative Review and Appeals**  
 Salaries and Expenses  
 (Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	
Miscellaneous Operations (001-099)	59	0	59	0	0	0	0	59
Security Specialists (080)	7	0	7	0	0	0	0	7
Personnel Management (0200-0260)	15	0	15	0	0	0	0	15
Clerical and Office Services (0300-0399)	280	0	392	0	0	3	0	395
Accounting and Budget (500-599)	6	0	6	0	0	0	0	6
Paralegals / Other Law (900-998)	519	0	607	0	0	0	0	607
Attorneys (905)	594	0	683	0	0	7	0	700
Paralegal Specialist (0950)	0	0	0	0	0	4	0	4
Information & Arts (1000-1099)	121	0	176	0	0	0	0	176
Business & Industry (1100-1199)	4	0	12	0	0	0	0	12
Library (1400-1499)	1	0	3	0	0	0	0	3
Supply Services (2000-2099)	2	0	6	0	0	0	0	6
Information Technology Mgmt (2210-2299)	20	0	40	0	0	0	0	40
Ungraded	187	0	168	0	0	0	0	168
<b>Total</b>	<b>1,815</b>	<b>0</b>	<b>2,184</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>2,198</b>
Headquarters Washington D.C.	595	0	689	0	0	14	0	703
US Fields	1,220	0	1,495	0	0	0	0	1,495
Foreign Field	0	0	0	0	0	0	0	0
<b>Total</b>	<b>1,815</b>	<b>0</b>	<b>2,184</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>2,198</b>



Administrative Review and Appeals  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Office of the Pardon Attorney				Total Program Changes	
	Program Increases		Program Decreases		Direct Pos.	Amount
	Direct Pos.	Amount	Direct Pos.	Amount		
GS-14	7	727	0	0	7	727
GS-11	3	200	0	0	3	200
GS-9	4	236	0	0	4	236
<b>Total Positions and Annual Amount</b>	<b>14</b>	<b>1,163</b>	<b>0</b>	<b>0</b>	<b>14</b>	<b>1,163</b>
Lapse (-)	-7	-524	0	0	-7	-524
11.5 - Other personnel compensation		10		0		10
<b>Total FTEs and Personnel Compensation</b>	<b>7</b>	<b>649</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>649</b>
12.1 - Civilian personnel benefits		209		0		209
22.0 - Transportation of things		3		0		3
23.3 - Communications, utilities, and miscellaneous charges		45		0		45
24.0 - Printing and reproduction		1		0		1
25.2 - Other services from non-federal sources		5,729		0		5,729
25.3 - Other goods and services from federal sources		21		0		21
25.6 - Medical care		1		0		1
26.0 - Supplies and materials		2		0		2
31.0 - Equipment		1,782		0		1,782
32.0 - Land and structures		154		0		154
<b>Total Program Change Requests</b>	<b>7</b>	<b>8,596</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>8,596</b>



## Summary of Requirements by Object Class

## Administrative Review and Appeals

## Salaries and Expenses

(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Ad. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	1,369	127,487	1,700	178,898	1,884	187,386	184	8,488
11.3 - Other than full-time permanent	0	14,085	0	11,152	0	11,163	0	11
11.5 - Other personnel compensation	0	1,803	0	1,874	0	1,884	0	10
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	-15	0	0	0	0	0	0
11.8 - Special personal services payments	0	17	0	0	0	0	0	0
<b>Total</b>	<b>1,369</b>	<b>143,377</b>	<b>1,700</b>	<b>191,924</b>	<b>1,884</b>	<b>200,433</b>	<b>184</b>	<b>8,509</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		43,961		59,229		59,964	0	-265
13.0 - Benefits for former personnel		123		123		123	0	0
21.0 - Travel and transportation of persons		3,285		4,044		4,031	0	-13
22.0 - Transportation of things		1,806		2,412		2,438	0	26
23.1 - Rental payments to GSA		33,805		37,894		41,976	0	4,082
23.2 - Rental payments to others		356		27		18	0	-9
23.3 - Communications, utilities, and miscellaneous charges		6,891		8,549		8,607	0	58
24.0 - Printing and reproduction		257		351		352	0	1
25.1 - Advisory and assistance services		19,431		6,023		6,023	0	0
25.2 - Other services from non-federal sources		45,614		57,531		62,892	0	5,361
25.3 - Other goods and services from federal sources		24,763		13,225		12,537	0	-688
25.4 - Operation and maintenance of facilities		1,069		2,007		2,007	0	0
25.6 - Medical care		217		277		279	0	2
25.7 - Operation and maintenance of equipment		12,719		20,348		20,382	0	34
26.0 - Supplies and materials		2,592		2,695		2,702	0	6
31.0 - Equipment		8,252		20,111		16,123	0	-3,988
32.0 - Land and structures		0		0		-2,463	0	-2,463
42.0 - Insurance claims and indemnities		609		20		20	0	0
<b>Total Obligations</b>		<b>349,127</b>		<b>426,791</b>		<b>437,444</b>	<b>0</b>	<b>10,653</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0	0	0
Transfers/Reprogramming		-4,000		-4,000		-4,000	0	0
Recoveries/Refunds		0		0		0	0	0
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		0		0		0	0	0
Unobligated End-of-Year, Expiring		1,945		0		0	0	0
<b>Total Direct Requirements</b>		<b>347,072</b>		<b>422,791</b>		<b>433,444</b>	<b>0</b>	<b>10,653</b>
<b>Reimbursable FTE</b>								

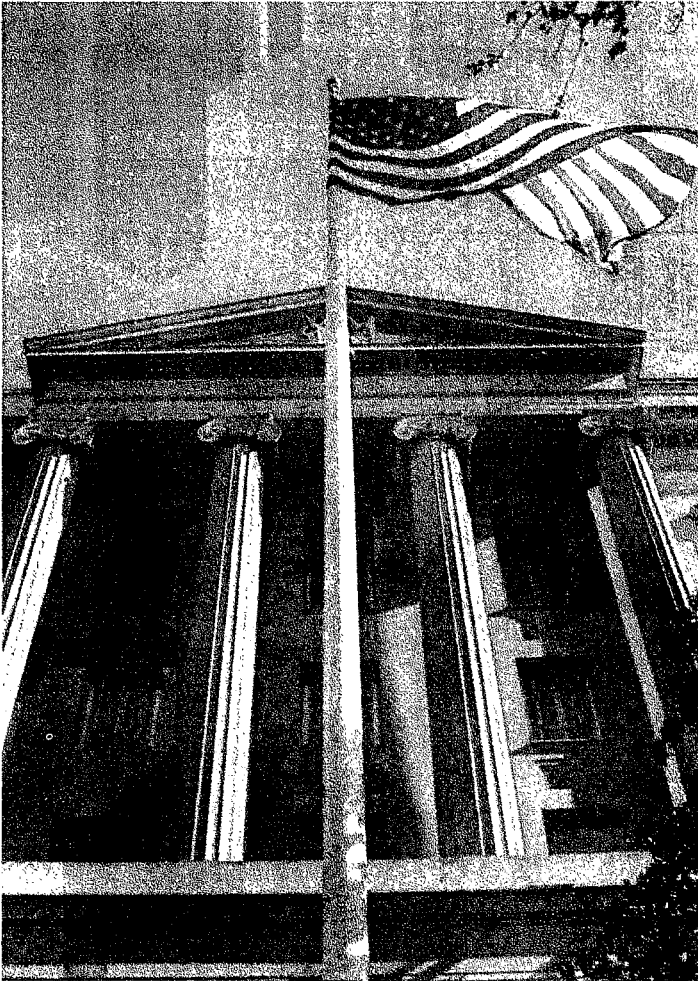




## **U.S. Department of Justice FY 2017 PERFORMANCE BUDGET**

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### **Office of the Inspector General Congressional Justification Submission**





## Table of Contents

I.	Overview .....	1
A.	Introduction .....	1
B.	Background .....	1
C.	OIG Organization .....	2
D.1.	Notable Highlights, Reviews and Recent Accomplishments .....	3
1.	Addressing the Persisting Crisis in the Federal Prison System .....	3
2.	Safeguarding National Security Consistent with Civil Rights and Liberties .....	5
3.	Enhancing Cybersecurity in an Era of Ever-Increasing Threats .....	6
4.	Effectively Implementing Performance-Based Management .....	7
5.	Ensuring Effective and Efficient Oversight of Law Enforcement Programs .....	10
6.	Upholding the Highest Standards of Integrity and Public Service .....	12
7.	Protecting Taxpayer Funds from Mismanagement and Misuse .....	15
8.	Whistleblower Ombudsperson .....	16
9.	Congressional Testimony .....	17
D.2.	Support for the Department's Savings and Efficiencies Initiatives .....	18
E.	Challenges .....	18
II.	Summary of Program Changes .....	20
III.	Appropriations Language and Analysis of Appropriations Language .....	21
A.	Analysis of Appropriations Language .....	21
IV.	Program Activity Justification .....	22
A.	Office of the Inspector General .....	22
B.	Program Description .....	22
C.	Performance and Resource Tables .....	23
D.	Performance, Resources, and Strategies .....	31
1.	Performance Plan and Report for Outcomes .....	31
2.	Strategies to Accomplish Outcomes .....	31
V.	Program Increases by Item .....	32
A.	Item Name: Whistleblower Protection .....	32
1.	Description of Item .....	32
2.	Justification .....	32
3.	Impact on Performance .....	36
B.	Item Name: IT Telecommunication Upgrades .....	37
1.	Description of Item .....	37
2.	Justification .....	37
3.	Impact on Performance .....	38



VI.	<i>Unused</i>	
VII.	Exhibits .....	40
	A. Organizational Chart	
	B. Summary of Requirements	
	C. FY 2017 Program Increases/Offsets by Decision Unit	
	D. Resources by DOJ Strategic Goal/Objective	
	E. Justification for Technical and Base Adjustments	
	F. Crosswalk of 2015 Availability	
	G. Crosswalk of 2016 Availability	
	H. Summary of Reimbursable Resources	
	I. Detail of Permanent Positions by Category	
	J. Financial Analysis of Program Changes	
	K. Summary of Requirements by Object Class	
	L. Status of Congressionally Requested Studies, Reports, and Evaluations	
	M. Additional Required Information for OIG Budget Submission	
	Appendix: Statistical Highlights.....	55



## I. Overview

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### A. Introduction

In Fiscal Year (FY) 2017, the Office of the Inspector General (OIG) requests a total of \$97,814,000, 461 FTE, and 480 positions (of which 139 are Agents and 35 are Attorneys) to investigate allegations of fraud, waste, abuse, and misconduct by Department of Justice (Department) employees, contractors, and grantees and to promote economy and efficiency in Department operations. This request is an increase of \$4,105,000 which is 4.4% over the FY 2016 President's Budget, and includes program increases of 6 POS, 6 FTE, and \$1,202,000 for Whistleblower Protection; Information Technology (IT) and Telecommunication upgrades, including investment in Data Analytics infrastructure, of \$940,000; and adjustments-to-base of \$1,963,000.

The OIG is committed to protecting taxpayer dollars from misuse, waste, fraud and abuse, and we intend to honor that commitment, even in this uncertain fiscal climate. The OIG has continually made every effort to make smart and strategic investments, and consistently delivered performance that is effective and efficient.

Keeping in line with the Department's priorities and ensuring the Department is spending wisely, the OIG will focus its audits, inspections, investigations, and special reviews on personnel and programs related to Detention and Incarceration, National Security, Cybercrime, Public Corruption, IT Security, and Mission Critical Infrastructure, and continue to promote savings and efficiencies wherever possible. We will discuss in this request some of our planned initiatives and recent accomplishments in these priority areas. We will also provide further explanation and justification in support of our request for enhancements for Whistleblower Protection, and IT and telecommunication upgrades.

The OIG's critical oversight mission to prevent misuse, waste, fraud, and abuse and to detect and deter misconduct in Department programs and operations can only be accomplished with appropriate budgetary resources. With the requested resources, the OIG will be able to sustain the number of quality audits, inspections, investigations, and special reviews to help assure Congress and the American taxpayers that funding provided will support the OIG's priorities.

### B. Background

The OIG was statutorily established in the Department on April 14, 1989. The OIG is an independent entity within the Department that reports to both the Attorney General and Congress on issues that affect the Department's personnel or operations.

The OIG has jurisdiction over all complaints of misconduct against Department of Justice employees, including the Federal Bureau of Investigation (FBI); Drug Enforcement Administration (DEA); Federal Bureau of Prisons (BOP); U.S. Marshals Service (USMS); Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); United States Attorneys' Offices (USAO); Office of Justice Programs (OJP); and other Offices, Boards and Divisions. The one exception is that allegations of misconduct by a Department attorney or law enforcement personnel that relate to the exercise of the Department attorneys' authority to investigate, litigate, or provide legal advice are the responsibility of the Department's Office of Professional Responsibility (OPR).



The OIG investigates alleged violations of criminal and civil law, regulations, and ethical standards arising from the conduct of Department employees in their numerous and diverse activities. The OIG also audits and inspects Department programs and assists management in promoting integrity, economy, efficiency, and efficacy. Appendix A contains a table that provides statistics on the most recent Semiannual Reporting period. These statistics highlight the OIG's ongoing efforts to conduct wide-ranging oversight of Department programs and operations.

## C. OIG Organization

The OIG consists of the Immediate Office of the Inspector General and the following five divisions and one office:

- **Audit Division** is responsible for independent audits of Department programs, computer systems, and financial statements. The Audit Division has regional offices in Atlanta, Chicago, Denver, Philadelphia, San Francisco, and Washington, D.C. Its Financial Statement Audit Office and Computer Security and Information Technology Audit Office are located in Washington, D.C. Audit Headquarters consists of the immediate office of the Assistant Inspector General for Audit, Office of Operations, Office of Policy and Planning, and Advanced Audit Techniques.
- **Investigations Division** is responsible for investigating allegations of bribery, fraud, abuse, civil rights violations, and violations of other criminal laws and administrative procedures governing Department employees, contractors, and grantees. The Investigations Division has field offices in Chicago, Dallas, Denver, Los Angeles, Miami, New York, and Washington, D.C. The Fraud Detection Office and the Cyber Investigations Office are located in Washington, D.C. The Investigations Division has smaller area offices in Atlanta, Boston, Trenton, Detroit, El Paso, Houston, San Francisco, and Tucson. Investigations Headquarters in Washington, D.C., consists of the immediate office of the Assistant Inspector General for Investigations and the following branches: Operations, Operations II, Investigative Support, and Administrative Support.
- **Evaluation and Inspections Division** conducts program and management reviews that involve on-site inspection, statistical analysis, and other techniques to review Department programs and activities and makes recommendations for improvement.
- **Oversight and Review Division** blends the skills of attorneys, investigators, program analysts, and paralegals to review Department programs and investigate sensitive allegations involving Department employees and operations.
- **Management and Planning Division** provides advice to OIG senior leadership on administrative and fiscal policy and assists OIG components in the areas of budget formulation and execution, security, personnel, training, travel, procurement, property management, information technology, computer network communications, telecommunications, records management, quality assurance, internal controls, and general support.
- **Office of the General Counsel** provides legal advice to OIG management and staff. It also drafts memoranda on issues of law; prepares administrative subpoenas; represents the OIG in personnel, contractual, ethics, and legal matters; and responds to *Freedom of Information Act* requests.



## **D.1. Notable Highlights, Reviews and Recent Accomplishments**

### **1. Addressing the Persisting Crisis in the Federal Prison System**

The Department continues to face challenges within the federal prison system. The Department projects that the costs of the federal prison system will continue to increase in the years ahead. Ultimately, this cost is consuming a large share of the Department's budget. Another challenge continues to be the significant overcrowding in the federal prisons, which potentially poses a number of important safety and security issues. The following are some examples of the OIG's oversight efforts in this critical challenge area.

#### ***Audit of the OJP Correctional Systems and Correctional Alternatives on Tribal Lands Program Grants Awarded to the Navajo Division of Public Safety, Window Rock, Arizona***

In September 2015, the OIG issued an audit examining 4 grants totaling \$70 million to the Navajo Division of Public Safety (NDPS). The grants, which were awarded by the DOJ OJP in 2008 and 2009, were intended to fund the design and construction of tribal justice facilities for the incarceration and rehabilitation of adult offenders subject to tribal jurisdiction. The OIG's audit identified over \$35 million in questionable uses of grant funding, as well as concerns relating to compliance with grant requirements. Most of the questioned costs were related to the construction of correctional facilities in Tuba City and Kayenta, Arizona that were built with capacities that were at least 250 percent larger than needed, and at an excess cost of more than \$32 million. We further found that OJP had the information necessary to identify the changes that expanded these projects' scope but did not take sufficient action to prevent the questionable spending. The OIG also identified other concerns with NDPS's management of the 4 grants we audited, including that NDPS did not check the suspension and debarment status of contractors paid with grant funds and did not submit accurate financial reports to OJP for 3 of the 4 grants.

The OIG report made nine recommendations to the OJP to remedy over \$35 million in findings and assist NDPS in improving its management of DOJ grants. OJP agreed with seven of the nine recommendations, but only partially agreed with the OIG's recommendation to remedy \$32 million associated with the Tuba City and Kayenta facilities, and disagreed with a recommendation to remedy \$290,116 in unnecessary planning grants. The Navajo Nation, which provided a response on behalf of the NDPS, agreed with three of our recommendations, and disagreed in whole or in part with recommendations regarding planning for detention space and specific questioned costs covering facility construction.

#### ***International Prisoner Transfer Program***

The International Prisoner Transfer Program (treaty transfer program) began in 1977 when the United States and Mexico entered into a bilateral treaty primarily to return American citizens incarcerated in Mexico to U.S. prisons, but also to return Mexican inmates in the United States to Mexican prisons. Currently, the United States has transfer agreements with 79 countries negotiated principally by the U.S. Department of State.

In August 2015, the OIG completed a status review examining the progress the Department has made in managing the treaty transfer program since the OIG's 2011 report finding that few foreign national inmates from treaty transfer nations were transferred to their home countries each year to complete their sentences. In the current review, we analyzed recent program data and assessed how the Department informs inmates about the program, determined transfer eligibility, and evaluated suitability for transfer. We further assessed how limitations on the number of inmates who are ultimately transferred affects the costs and overcrowding of the federal prison system.



Our review concluded that the Department has taken a number of steps to improve the management of the treaty transfer program, including ensuring that inmates fully understand the program and that the Department considers transfer requests consistently. Additionally, the Department has recently begun implementing the Smart on Crime initiative, which is intended in part to reduce incarceration costs and help alleviate prison overcrowding. We made 5 recommendations to the Department to further improve the management of the treaty transfer program. The Department agreed with all 5 of the recommendations.

### ***BOP Aging Inmates***

In May 2015, the OIG issued a report on the impact of the aging inmate population on the BOP. In addition to the greater costs of incarcerating inmates age 50 or older (aging inmates), the OIG found that the BOP has challenges in providing a safe, cost-efficient, and appropriately secure environment for aging inmates and in preparing them to reenter the community.

The OIG identified several concerns about the BOP's management of its aging inmate population: (1) aging inmates cost, on average, 8 percent more than inmates age 49 and younger, primarily due to healthcare expenditures; (2) institutions do not have appropriate staffing levels to address the needs of aging inmates, and they provide limited training for this purpose; (3) institutions' infrastructures pose challenges for aging inmates with physical limitations; (4) educational programs do not address the needs of aging inmates, many of whom have already obtained an education or do not plan to seek further employment after release; and (5) many aging inmates could be viable candidates for early, compassionate release, but even the BOP's revised eligibility provisions for aging inmates have not been effective. In considering the effect of early release on public safety, the OIG also found that aging inmates commit less misconduct while incarcerated and that, once released, they have a lower rate of re-arrest than younger inmates. The OIG made 8 recommendations to improve the BOP's management of its aging inmate population. BOP agreed with each of the 8 recommendations.

### ***BOP Contract with Reeves County Detention Center***

In April 2015, the OIG audited a BOP contract awarded to the Reeves County Detention Center (RCDC) located in Pecos, Texas. The preliminary objective of this audit was to assess the BOP's and contractor's compliance with contract terms and conditions in the areas of billings and payments, staffing requirements, and contract oversight and monitoring. The scope of this audit focused on but was not limited to contract performance from October 1, 2008. The OIG found that between February 2007 and December 2014, RCDC I/II was rated "deficient" or "unsatisfactory" in 6 of 12 award fee evaluation periods. BOP's award fee rating reports reflected that RCDC I/II consistently struggled to meet or exceed baseline contractual standards, received an unacceptable number of deficiencies and notices of concern; was unresponsive to BOP inquiries; struggled with staffing issues in health services and correctional services; and frequently submitted inaccurate routine paperwork, including erroneous disciplinary hearing records and monthly invoices. In addition, the BOP reports repeatedly described RCDC I/II's quality control program as minimally or marginally effective. BOP reports indicate that performance improved over time, particularly in 2013 when the contractor received a "good" rating and its first award fee, and in 2014 when the contractor received a "very good" rating and its second award fee. The OIG made 18 recommendations to assist BOP in improving contractor and subcontractor operations and BOP monitoring and oversight at RCDC I/II, and also identified \$3 million as questioned costs and funds that should be put to better use. BOP agreed with 17 out of the 18 recommendations.



### ***Private Contract Prisons***

The OIG is examining how the BOP monitors its private contract prisons; whether contractor performance meets certain inmate safety and security requirements; and how contract prisons and similar BOP institutions compare in an analysis of certain inmate safety and security data. The review is in progress, with a tentative report release date of March 2016.

## **2. Safeguarding National Security Consistent with Civil Rights and Liberties**

The Department's national security efforts continue to be a focus of the OIG's oversight work, which has consistently shown that the Department faces myriad challenges in its efforts to protect the nation from attack.

### ***Use of Pen Register and Trap and Trace Devices under the Foreign Intelligence Surveillance Act in 2007 through 2009***

Pen registers and trap and trace devices have long been used for federal law enforcement purposes. The federal criminal pen register statute was enacted in 1986 and, in 1998, Congress amended the *Foreign Intelligence Surveillance Act* to authorize the government to use pen registers to collect foreign intelligence information in national security investigations after obtaining an order from the FISA Court.

In June 2015, the OIG released a public Executive Summary providing an overview of the results of the OIG's review of the FBI's use of pen registers and trap and trace devices. The summary described the methodology the OIG used to conduct the review and provides some legal background about pen registers. The summary also described the OIG's findings regarding the FBI's storage and handling of pen register information and the compliance process relating to the use of pen registers.

### ***National Security Division's Administration and Enforcement of the Foreign Agents Registration Act***

In March 2015, the OIG initiated an audit of the National Security Division's administration and enforcement of the *Foreign Agents Registration Act*. The preliminary objectives of the audit are to determine: (1) the trends in the numbers and types of registrations; (2) the timeliness and sufficiency of the information provided by registrants; (3) the monitoring and enforcement actions taken by the Department to ensure appropriate registration; and (4) areas for administrative or legislative improvements. The draft report is in the review stage with a tentative release date of March 2016.

### ***Patriot Act, Section 1001***

Section 1001 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (Patriot Act) directs the OIG to receive and review complaints of civil rights and civil liberties abuses by DOJ employees, to publicize how people can contact the OIG to file a complaint, and to send a semiannual report to Congress discussing the OIG's implementation of these responsibilities. In September 2015, the OIG issued its most recent such report, which summarized the OIG's Section 1001 activities from January 1 through June 30, 2015. The report described the number of complaints the OIG received under this section, the status of investigations conducted by the OIG and DOJ components in response to those complaints, and an estimate of the OIG's expenses for conducting these activities. The report also describes other OIG reviews that are related to potential civil rights and civil liberties issues but not explicitly required by Section 1001.



### ***Handling of Known or Suspected Terrorists Admitted into the Federal Witness Security Program***

The OIG is conducting a follow-up audit of the Department's handling of known or suspected terrorists admitted into the federal Witness Security Program (Program). The preliminary objectives are to review the Department's handling of known or suspected terrorists admitted to the Program, practices for watch listing and processing encounters with this group of Program participants, and procedures for mitigating risks to the public through restrictions placed on this high-risk group of Program participants. The audit is in progress with a tentative report release date of June 2016.

### **3. Enhancing Cybersecurity in an Era of Ever-Increasing Threats**

The Department will be challenged to sustain a focused, well-coordinated cybersecurity approach for the foreseeable future. Cybersecurity is a high risk across the federal government and the Department must continue to emphasize protection of its own data and computer systems, while marshalling the necessary resources to combat cybercrime and effectively engaging the private sector.

#### ***Federal Bureau of Investigation's Implementation of its Next Generation Cyber Initiative***

In July 2015, the OIG issued an audit of the FBI's implementation of its Next Generation Cyber Initiative. The FBI's initiative was launched in 2012, shortly after the OIG issued a report in 2011 on the FBI's ability to address the cyber intrusion threat. The OIG found that there has been considerable progress made in achieving the goals established by the Next Generation Cyber Initiative; however, several challenges have prevented the FBI from fully meeting its objectives. Specifically, the audit found that the FBI has strengthened the National Cyber Investigative Joint Task Force, an information sharing center among 19 U.S. agencies and international representatives. In addition, the FBI implemented new training to improve the awareness of all FBI employees, as well as the technical capabilities of those investigating cyber intrusions.

The audit also found that the FBI faces challenges when competing with the private sector to hire and retain highly qualified cybersecurity personnel, including computer scientists, because private sector employers often have less onerous background investigations, as well as higher salaries. In addition the OIG found that the FBI had difficulty attracting external participants, particularly state and local law enforcement agencies, to its local Cyber Task Forces. The FBI continues to face challenges relating to information sharing with private sector entities, in part because of concerns in the private sector about privacy and the security of sensitive information it shares with the government. The OIG made 8 recommendations to help the FBI achieve its goals for the Next Generation Cyber Initiative and the FBI agreed with all of them.

#### ***Cyber Security examination***

The Investigations Division's Cyber Investigations Office (INV/CIO) continues to conduct computer forensic examination and mobile device forensic examinations for over 200 pieces of digital evidence annually, which includes computers, hard drives, cell phones, and other electronic media. The INV/CIO reviews numerous referrals from the Justice Security Operations Center (JSOC) regarding the leak or spillage of Personally Identifiable Information and other sensitive DOJ data and makes appropriate disposition in consultation with Investigations Division senior officials.

The INV/CIO will continue to build its expertise in cyber security and work with the JSOC to identify potential intrusion cases deemed appropriate for investigation.



### ***Insider Threat Prevention and Detection Program***

The Insider Threat Prevention and Detection Program (ITPDP) is designed to deter, detect, and mitigate insider threats from DOJ employees and contractors who would use their authorized access to do harm to the security of the U.S., which can include damage through espionage, terrorism, unauthorized disclosure of information, or through the loss or degradation of departmental resources or capabilities. While the initial focus is DOJ classified information and networks, it has expanded to unclassified sensitive information.

There are two parts to OIG's role in the DOJ ITPDP. One is compliance with DOJ Order 0901 that requires OIG to work with the Department in its efforts to monitor user network activity relating to classified material and networks. The reporting, training, and coordination requirements in this first role will be implemented by M&P Division's Office of Security Programs. The second part of the ITPDP involves the INV/CIO. The OIG has representatives that act as law enforcement liaisons to the JSOC relating to Insider Threat referrals as well as other cyber matters such as unauthorized access, network intrusion, child exploitation, and other potential violations of 18 USC 1030.

### ***Joint Review on Domestic Sharing of Counterterrorism Information***

In response to a Congressional request, the Inspectors General of the Intelligence Community, DOJ, and Department of Homeland Security (DHS) initiated a coordinated, joint review focusing on domestic sharing of counterterrorism information. The objectives of this review will be to:

- (1) identify and examine the federally supported field-based intelligence entities engaged in counterterrorism information-sharing to determine their overall missions, specific functions, capabilities, funding, and personnel and facility costs;
- (2) determine whether counterterrorism information is being adequately and appropriately shared with all participating agencies; and
- (3) identify any gaps and/or duplication of effort among the entities.

## **4. Effectively Implementing Performance-Based Management**

Performance-based management has been a long-standing challenge not only for the Department but across the entire federal government. Office of Management and Budget (OMB) Circular No. A-11 and the *Government Performance and Results Modernization Act* (GPRA Modernization Act) place a heightened emphasis on priority-setting, cross-organizational collaboration to achieve shared goals, and the use and analysis of goals and measurements to improve outcomes. A significant management challenge for the Department is ensuring, through performance-based management, that its programs are achieving their intended purposes. The OIG will ensure that the Department is effectively implementing performance-based management and taking actions to meet the requirements of the GPRA Modernization Act.

### ***Audit of Grants Awarded to the California Governor's Office for Emergency Services in Mather, California***

In January 2016, the OIG issued an audit of 10 grants totaling over \$382 million to the California Governor's Office for Emergency Services (Cal OES) in Mather, California. These DOJ OJP grants, which were awarded for FYs 2002 - 2015, provided funds from the Crime Victims Fund to community-based organizations that provide direct services to victims of crime. The audit found that Cal OES did not comply with essential award requirements in 4 of the 8 areas the OIG tested, and questioned over \$492 thousand in grant expenditures as unallowable. The OIG questioned most of these costs based on indications that Cal OES may not have complied with the requirement that it use DOJ grant funds to supplement, and not replace, state funds for grant-related activities. In addition, the OIG found that Cal OES inaccurately reported indirect cost expenditures on its financial reports to OJP, and it received reimbursements for indirect costs charged to one of its awards that exceeded the allowed amount. The OIG made 11



recommendations to OJP to improve Cal OES's management of DOJ grant funds and remedy questioned costs, and OJP and Cal OES agreed with all of them.

***Audit of the Anaheim, California Police Department's Equitable Sharing Program***

In December 2015, the OIG issued an audit of the Anaheim, California Police Department's (Anaheim PD) equitable sharing activities for FYs 2012 – 2014. The OIG assessed whether the approximately \$9.8 million in DOJ equitable sharing funds received by the Anaheim PD to support law enforcement operations was properly accounted for and used for allowable purposes. The audit found that the Anaheim PD failed to comply with 4 of the 5 DOJ Equitable Sharing Program requirements that the OIG tested. Specifically, the audit questioned \$8 thousand in unallowable expenditures, and also determined that the Anaheim PD commingled DOJ equitable sharing funds with funds from other sources. Finally, the OIG determined that the Anaheim PD would benefit from enhanced internal controls to ensure compliance with equitable sharing program guidelines and requirements. The OIG made 7 recommendations to the Criminal Division to assist in the Anaheim PD's management of equitable sharing funds and the police department's involvement in the DOJ Equitable Sharing Program. The Criminal Division, through its Asset Forfeiture and Money Laundering Section, agreed with all of the recommendations. The Anaheim PD indicated that it had addressed or was in the process of addressing all of the recommendations outlined in the audit.

***Audit of the Office of Justice Programs Bureau of Justice Assistance Award to the Supreme Court of Virginia, Richmond, Virginia***

In December 2015, the OIG audited OJP's Bureau of Justice Assistance awarded grant to the Supreme Court of Virginia (SCV) under its Adult Drug Court Discretionary Grant Program. The award provided \$1.5 million to implement drug treatment courts that integrated substance abuse treatments, mandatory drug testing, and other sanctions with non-violent, substance-abusing offenders across Virginia.

The objective of this audit was to determine whether costs claimed under the grant were allowable, supported, and complied with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, program performance, expenditures, budget management and control, drawdowns, and federal financial reports. The criteria we audited against are contained in the OJP Financial Guide and the grant award documents.

As of April 2015, the SCV spent over \$800 thousand of the grant funds awarded. We examined the SCV's accounting records, financial and progress reports, and operating policies and procedures and found that the SCV complied with essential award conditions related to transactions, contract management, sub recipient monitoring, federal financial reports, and progress reports.

After examining SCV's accounting records, budget documents, financial and progress reports, and financial management procedures, the audit found that the SCV did not have any reportable deficiencies. However, we did note in our report that the SCV did drawdown unallowable indirect costs from federal funds and also misreported expenses on the Federal Financial Reports. Because the SCV corrected these errors, our report contains no recommendations.

***Audit of the Office on Violence Against Women Grants Awarded to the Dawson County Domestic Violence Program, Glendive, Montana***

In November 2015, the OIG audited five grants awarded by the Office on Violence Against Women to the Dawson County Domestic Violence Program (DCDV) in Glendive, Montana.



The DCDV was awarded over \$4.8 million. The objective of this audit was to determine whether costs claimed under the grants were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions. To accomplish this objective, we assessed performance in the following areas of grant management: financial management, expenditures, budget management and control, drawdowns, Federal Financial Reports, and program performance.

The OIG made 13 recommendations and we questioned approximately \$4.0 million of the total amount drawn down. Four of the recommendations addressed dollar-related findings and 9 recommendations addressed improvements to the management of DOJ grants. The Office of Violence against Women agreed with all the recommendations and resolved to coordinate with DCDV to address all the issues. DCDV disagreed with one of the recommendations but neither agreed nor disagreed with the remaining recommendations.

### ***Audit of the Department of Justice's Use of Extended Temporary Duty Travel***

The Department's employees are often required to perform official travel on either a domestic or foreign basis. If an employee is traveling more than 50 miles away from his or her permanent duty station to the same location, for longer than 30 calendar days, the employee is considered to be in extended temporary duty (ETDY) status and can be restricted to a reduced amount of authorized travel reimbursements to allow for the reduction of costs associated with traveling for an extended period.

In September 2015, the OIG audited the Department's use of extended temporary duty travel. Our objectives in the audit was to evaluate whether DOJ: (1) had sound ETDY policies and practices that promote cost effectiveness, (2) had adequate tracking systems and documentation for ETDY expenditures, and (3) is making appropriate use of ETDY.

We focused on the following DOJ components: the Criminal Division, the Executive Office for United States Attorneys and the U.S. Attorney's Offices (EOUSA/USAO), the FBI, and the National Security Division (NSD) that made significant use of ETDY. Based on the limited data available, we estimated that these components spent more than \$54 million on 4,788 ETDY events during our audit review period. We examined the policies, procedures, tracking, and use of ETDY within these components during FYs 2012 and 2013, and the first quarter of 2014.

Our report found that the Department did have an ETDY policy from 1998 in place. We found it was outdated and did not include thorough or current guidance to Department components; components selected for review did not consistently interpret and implement existing DOJ ETDY policy; and DOJ components tracked ETDY in only a minimal and manual manner, which led to various errors and a lack of knowledge by JMD and the components of ETDY activity.

The OIG made 14 recommendations to help the Department improve its oversight of ETDY to ensure that ETDY is used appropriately and efficiently, and that all DOJ components consistently follow ETDY guidelines. The Department concurred with all the recommendations and resolved to address them.

### ***Use of Section 215 of the Patriot Act***

In May 2015, the OIG issued a classified report examining the FBI's progress in implementing recommendations from prior reports involving the use of Section 215 orders for business records. The report also examined the number of Section 215 applications filed by the FBI between 2007 and 2009, and any improper or illegal use of these authorities. This report follows up the OIG's



March 2007 and March 2008 reports on the FBI's use of Section 215 authorities after the enactment of the Patriot Act.

### ***Department's Use and Support of Unmanned Aircraft Systems***

In March 2015, the OIG audited the Department's use and support of Unmanned Aircraft Systems (UAS), commonly referred to as "drones," which followed up on findings from the OIG's September 2013 interim report on the Department's use and support of UAS, as well as examined the extent to which Department components have relied on other agencies' UAS to support Department law enforcement efforts. The OIG found that the FBI, which remains the only Department component that operationally deploys its own UAS, faces discrete program management challenges regarding its use of UAS. Specifically, during the OIG's review the FBI maintained all 17 of its operational UAS at a single location and had only one pilot team on staff adequately trained to fly all models of its UAS.

In addition, ATF spent approximately \$600 thousand on UAS but never flew them operationally. After a series of technological limitations with these UAS related to flight time and maneuverability, ATF subsequently suspended its UAS program in June 2014 and disposed of these UAS. Yet less than a week after that suspension, a separate unit within ATF purchased 5 small commercial UAS for approximately \$15 thousand without coordinating with ATF's UAS program office. That unit of ATF has grounded these UAS until they receive further guidance regarding their use. Further, the audit found that while the FBI, ATF, DEA, and USMS have all received support from Predator-B UAS operated by DHS and U.S. Customs and Border Protection, the Department components did not have recordkeeping policies or practices to document support received from non-Department operated UAS, and they maintained only minimal documentation of such support in the field. Without such efforts, the OIG believes that Department components may not be able to accurately assess their need for UAS support or how to use UAS most effectively and appropriately to support their operations. As a result, the OIG made 4 recommendations to help the Department continue to improve its UAS management and oversight. The Department, including the FBI and ATF, agreed with the recommendations.

## **5. Ensuring Effective and Efficient Oversight of Law Enforcement Programs**

The Department continues to be challenged in its oversight role of the vast variety of complex and evolving law enforcement issues. It is crucial that the Department ensure proper oversight of its programs while acting consistently with the protection of civil rights for American citizens.

### ***Audit of the Office of Community Oriented Policing Services Hiring Program Grants Awarded to the Metropolitan Police Department, Washington, D.C.***

In December 2015, the OIG audited the Office of Community Oriented Policing Services (COPS Office) Hiring Program (CHP) grants awarded to the Washington, D.C., Metropolitan Police Department (MPD). The CHP grants provided funding directly to law enforcement agencies that have primary law enforcement authority to impact their community policing efforts. During FYs 2011 through 2014, the COPS Office awarded the MPD \$6.2 million to hire 46 police officers and implement CHP initiatives.

The objective of this audit was to determine whether costs claimed under the grants were allowable, supported, and in accordance with applicable laws, regulations, guidelines, and terms and conditions of the grant. We also assessed the MPD's program performance in meeting grant objectives and overall accomplishments.

The audit found that the MPD generally complied with the essential grant requirements in the areas we tested and that all tested expenditures were allowable, supported, and in accordance



with applicable laws, regulations, guidelines, and the terms and conditions of the grant. However, while the CHP Grant Owner's Manual states that agencies should report only accurate data in grant applications, we identified several discrepancies in the MPD's application statistics. MPD officials told us that these differences occurred mainly because of data entry error or because MPD officials used the incorrect data sources.

Although we determined, based on COPS Office input, that the misreported data did not affect the MPD's eligibility to receive any of these CHP awards, because the COPS Office uses application data as a basis for awarding its grants, we believe it is vital that the MPD submits only accurate data to the COPS Office. Our report recommended that the COPS Office require that the MPD establish procedures that ensure it will compile and submit accurate data for future CHP award opportunities.

### ***Audit of Office of Justice Programs Grants Awarded to the Puerto Rico Department of Justice, San Juan, Puerto Rico***

In September 2015, the OIG audited the Department's grants, including *American Recovery and Reinvestment Act* (Recovery Act) grants, awarded by OJP to the Puerto Rico Department of Justice. The purposes of these grants were to support a broad range of activities to control and prevent crime based on local needs and conditions; provide services to victims of crime; enhance sex offender registration and notification programs; and provide loan repayment assistance for local, state, and federal public defenders and local and state prosecutors.

The objective of the audit was to assess performance in the key areas of grant management that were applicable and appropriate for the grants under review. We assessed performance in the areas of: (1) internal controls; (2) grant fund drawdowns; (3) management of sub-recipients, including the processes for soliciting applications for funding, awarding grant funds and contracts, and monitoring of sub-recipients; (4) income generated from grant funds and programs; (5) grant expenditures; (6) management of property items bought with grant funds; and (7) grant goals and accomplishments.

The results of our audit identified over \$6.6 million in dollar-related findings, including \$5.1 million in net questioned costs and \$1.5 million in funds put to better use. The report made 5 recommendations to address dollar-related findings and 15 recommendations to improve the management of DOJ grants.

### ***DEA's Confidential Source Program***

In July 2015, the OIG issued a report examining aspects of the DEA's Confidential Source Program. The audit was initiated as a result of numerous allegations regarding the DEA's handling and use of confidential sources. The OIG found that the DEA's policy for confidential sources, which was approved by the DOJ Criminal Division in 2004, differs in several significant respects from the Attorney General's (AG) Guidelines Regarding the Use of Confidential Informants (AG Guidelines), which is the DOJ's overarching policy regarding component use of confidential sources. The results of the audit also found that the DEA's Confidential Source Program lacks sufficient oversight and consistency with the rules governing other DOJ law enforcement components. In review of the program we found that between 2003 and 2009, the DEA used over 240 long-term confidential sources without rigorous review. In addition, in most instances the DEA continued to use these sources without obtaining the required DOJ concurrence. In our audit we found that the DEA policy does not include any specific guidance regarding the use of DEA licensees as confidential sources. Finally, we found that the DEA provided *Federal Employees' Compensation Act* (FECA) benefits to confidential sources without any process in place for reviewing the claims and determining eligibility for these benefits. We



have estimated that between July 1, 2013, and June 30, 2014, the DEA paid 17 confidential sources and their dependents FECA benefits totaling more than \$1 million, and that the DEA had not adequately considered the implications of awarding such benefits on the disclosure obligations of federal prosecutors nor consulted with DOJ on the issue. The report made 7 recommendations to the DEA to improve the policies and management of its Confidential Source Program, and the DEA agreed with all of them.

## **6. Upholding the Highest Standards of Integrity and Public Service**

Charged with enforcing the nation's laws and defending its interests, the Department's senior officials and employees are expected to uphold the highest standards of integrity. Meeting this expectation is a key component in fulfilling the Department's crucial role in public service.

### ***Review of DEA Bonuses and Other Favorable Personnel Actions for Employees Involved in Alleged Sexual Misconduct Incidents***

In October 2015, the OIG released a report examining whether DEA employees implicated in an earlier OIG report on sexual harassment and misconduct, received any promotions, bonuses, awards, or other favorable personnel actions after the allegations against them were disclosed to the DEA. The latest report was initiated in response to a request from the Chairman of the U.S. House of Representatives Committee on Oversight and Government Reform. It followed our March 2015 report, titled "Review of the Handling of Sexual Harassment and Misconduct Allegations by the Department's Law Enforcement Components," which revealed significant systemic issues requiring prompt corrective action. In the report issued last week, the OIG found that none of the 14 employees referenced in the incidents discussed in our prior report received promotions. However, 8 of the 14 employees received bonuses or awards contrary to DEA policy. DEA policy generally prohibits employees from receiving such awards for 3 years after being subject to discipline for significant misconduct or while a misconduct investigation is pending, absent a specifically approved basis for approval. The report made 2 recommendations to help the DEA ensure that officials are aware of and consistently comply with the DEA's awards policy, and the DEA agreed with both of them.

### ***Handling of Sexual Harassment and Misconduct Allegations in Law Enforcement Components***

In March 2015, the OIG issued a report on the handling of sexual harassment and sexual misconduct allegations by the Department's four law enforcement components: ATF, DEA, FBI, and USMS. The review focused on the nature, frequency, reporting, investigation, and adjudication of allegations of sexual harassment or sexual misconduct.

The report uncovered deficiencies related to communication, as well as reporting, investigating, qualifying, and detecting sexual harassment and misconduct. At ATF, the DEA, and the USMS, ineffective communication between internal affairs offices and security offices led to potential security risks. In all four components, supervisors sometimes failed to report sexual harassment and misconduct. At the DEA, there were failures to fully investigate credible allegations of sexual harassment and misconduct, particularly in two cases related to overseas prostitution. The FBI elected not to investigate multiple credible allegations of sexual harassment and sexual misconduct. Each component sometimes charged employees with broad offenses when more specific offenses applied. All the components had weaknesses in detecting sexually explicit text messages and images. The limitations affected the components' ability to make the information available to investigators and risked hampering the components' ability to satisfy their discovery obligations. The report included 8 recommendations to improve the law enforcement components' disciplinary and security processes relating to allegations of sexual harassment and sexual misconduct.



***Former Secret Service Special Agent Sentenced on Charges of Money Laundering and Obstruction of Justice Related to the Silk Road Investigation***

A former Secret Service special agent who had been a member of the Baltimore Silk Road Task Force was sentenced to 71 months in prison on charges of money laundering and obstruction of justice; the agent was also ordered to forfeit \$651 thousand.

Between 2012 and 2014, the agent was assigned to the Baltimore Silk Road Task Force, a multi-agency group investigating illegal activity on the Silk Road, a covert online marketplace for illicit goods, primarily drugs. The agent's responsibilities included, among other things, conducting forensic computer investigations in an effort to locate, identify, and prosecute targets.

The agent admitted to using account information that he obtained during the January 2013 search and arrest of an assailant, a customer support representative on Silk Road. This assailant was to reset passwords and PINs of various accounts on Silk Road and move approximately 20,000 bitcoin, at the time worth approximately \$350 thousand, from those accounts into a bitcoin "wallet" that the agent controlled. The agent admitted that he moved the stolen bitcoin into an account at Mt. Gox, an online digital currency exchange based in Japan, and that between March and May 2015, he liquidated the bitcoin into \$820 thousand in U.S. currency and had the funds transferred to a personal investment account in the United States. In June 2014, the agent transferred money from the investment account into a personal bank account that he shared with another person.

The agent is the second of two federal agents to be sentenced in connection with the Baltimore Silk Road Task Force's investigation into the Silk Road. A special agent with the DEA Baltimore office pleaded guilty in July 2015 to a three-count Information charging him with money laundering with predicates of wire fraud and theft of government property, obstruction of justice, and extortion under color of official right related to his theft and diversion of more than \$700 thousand in digital currency to which he gained control as part of an undercover role on the Baltimore Silk Road Task Force. In October 2015, the DEA agent was sentenced to 78 months in prison.

***Findings Concerning a DOJ Attorney Who Sent Harassing E-mails to Government Employees and Lacked Candor with the OIG***

The OIG initiated an investigation upon receipt of information that a DOJ employee received a harassing message from a non-attributable email address which originated from the DOJ. The OIG investigation identified a DOJ attorney as the author of the message. We also determined that the attorney sent similarly harassing messages to two other government employees using the same non-attributable email address. The attorney had worked with all three recipients in a prior job years earlier.

The OIG concluded that the attorney transmitted harassing messages in violation of DOJ policy and federal law. The OIG also found that the attorney displayed a lack of candor during an OIG interview by initially denying any knowledge of the messages or sending them, and maintaining they could have resulted from hacking, before admitting to having sent the messages when confronted with computer forensic proof. Prosecution was declined. The OIG has completed its investigation and has provided a report to the division at which the attorney is employed, and to the DOJ Office of Professional Responsibility for their review and appropriate action.



### ***Findings Concerning On-Duty Gambling and Related Misconduct by an ATF Special Agent in Charge While in a Prior Position***

The OIG initiated this investigation based on information from ATF alleging that a current Special Agent in Charge (SAC) gambled on duty and engaged in related misconduct while in a position with ATF prior to being promoted. The OIG investigation determined that the SAC gambled on duty, misused his government travel card to facilitate his gambling, and misused his assigned government vehicle by using it to travel to casinos. By gambling while on duty, the SAC violated federal regulations that prohibit federal employees from gambling while on duty. In addition, the SAC violated ATF policy by, among other things, misusing his government travel card to obtain cash advances to gamble, and using his assigned government vehicle to travel to casinos to gamble, which is not an “official purpose” for which use of the government vehicle is authorized. Prosecution was declined. The OIG provided a report of investigation to ATF for appropriate action.

### ***Findings Concerning the Absence from Work Without Approved Leave of a DOJ Attorney***

The OIG initiated this investigation based on a referral from the employing division of a Department’s attorney. According to the division, the attorney’s time and attendance at work for approximately 5 months were unaccounted for, both by the attorney’s assigned division and by another Department component to which the attorney had been temporarily assigned. The OIG determined that for a period of months during which the attorney was receiving full salary and benefits, the attorney was not present at work, did not complete any work-related functions, and was not on approved leave. Prosecution was declined. The Department and the attorney reached a settlement. Although the attorney did not admit liability, the attorney agreed to resign Department employment, forfeit the annual leave that had accrued during the period for which time and attendance was unaccounted, and repay a sum of money to the Department. The OIG provided its report to the Department’s Office of Professional Responsibility.

### ***U.S. Congressman and Others Indicted for Participating in a Racketeering Conspiracy***

In July 2015, a United States Congressman and four other individuals were indicted in the Eastern District of Pennsylvania related to their participation in a racketeering conspiracy which included the misuse of hundreds of thousands of dollars of federal, charitable, and campaign funds. The 29-count Indictment outlines five distinct fraud schemes, including one related to an OIG audit and investigation of the Educational Advancement Alliance’s (EAA) use of \$1.8 million in DOJ grant funds. According to the Indictment, in 2007 the Congressman and others conspired to receive an illegal \$1 million campaign loan related to the Congressman’s failed 2007 attempt to become elected mayor of Philadelphia. In 2008, the Congressman and other officials conspired to create a false \$500 thousand contract between EAA and other officials in order to repay a portion of this loan using non-DOJ funds. The case is being investigated by the FBI and the Internal Revenue Service. Assistance was also provided by the DOJ OIG’s office, the National Aeronautics and Space Administration Office of Inspector General and the Department of Commerce’s Office of Inspector General.

### ***Improper Hiring Practices at INTERPOL Washington***

In February 2015, the OIG released a report examining allegations of improper hiring practices by senior officials in the International Criminal Police Organization (INTERPOL) Washington, a Department component co-managed by the DHS. The OIG report describes the efforts of the organization’s Executive Officer obtaining positions for his son and three additional persons associated with members of his family, as well as the efforts of the Executive Officer and other INTERPOL Washington managers to obtain internships for people they knew. The OIG referred



its findings regarding the Executive Officer and other INTERPOL Washington managers to the ODAG for its review and appropriate action.

## **7. Protecting Taxpayer Funds from Mismanagement and Misuse**

The OIG's recent oversight work assists the Department in its efforts to ensure that taxpayer funds are protected from fraud, mismanagement, and misuse. It is essential that the Department continue to manage its resources wisely and maximize the effectiveness of its programs regardless of the Department's budget environment.

### ***Debt Collection Program of the U.S. Attorneys' Offices***

In June 2015, the OIG released a report examining the efforts of the U.S. Attorneys' Offices (USAO) and the Executive Office for U.S. Attorneys (EOUSA) to collect debts resulting from criminal and civil cases that are owed to the United States and federal crime victims. Collecting these debts is an important part of the USAOs' mission, and the DOJ has indicated that it places a high priority on improving debt collection efforts and ensuring that crime victims receive full and timely restitution. However, the OIG found that, in many cases, USAOs have not devoted the resources or put in place the policies and procedures needed to make this a reality. Rather, the OIG found that many USAOs have failed to appropriately prioritize debt collection, which has resulted in insufficient staffing of Assistant U.S. Attorneys and support positions, as well as ineffective collaboration between Financial Litigation Units and other units in the USAOs, all of which hinders the ability of the USAOs to fulfill their mission to collect debts. The OIG made five recommendations to EOUSA to improve the ability of the USAOs to fulfill their mission to collect debts. EOUSA agreed with all of the recommendations.

### ***Government Contractor Arrested on Wire Fraud Charges***

In August 2015, a government contractor providing services for the BOP, FBI, and other government agencies was arrested in the District of New Jersey and charged with one count of conspiracy to commit wire fraud. According to the Criminal Complaint, the contractor allegedly engaged in a scheme to win contract bids and then not pay subcontractors for their actual work. The losses claimed by victim vendors exceed \$900 thousand. The contractor's activity took place from November 2012 through August 2015, when he was arrested by the OIG.

### ***Former FBI Agent Sentenced for Obstructing Justice, Falsifying Records, and Possessing Heroin***

In July 2015, an agent assigned to the Washington, D.C., Field Office and a member of the Cross-Border Task Force participated in the undercover purchase of heroin and, in lieu of turning the heroin into evidence and documenting its seizure, Lowry ingested the heroin. He also tampered with heroin evidence seized during several of his investigations. The agent pleaded guilty to obstruction of justice, falsification of records, conversion of property, and possession of heroin. He was sentenced to 36 months in prison for tampering with substantial quantities of drug evidence and also ordered 2 years of supervised release, a \$15 thousand fine, and a special assessment.

### ***Improper Payments***

In May 2015, the OIG issued an audit assessing the Department's compliance with the reporting requirements of OMB Circular A-123, Management's Responsibility for Internal Control, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments; and OMB Circular A-136, Financial Reporting Requirements, as they relate to the *Improper Payments Information Act of 2002*, as amended, for FY 2014. We concluded that the Department complied, in all material respects, with these requirements for FY 2014.



### ***Crime Victims Fund Risk Management Assessment***

The OIG initiated an audit of OJP's Crime Victims Fund (CVF), which was established by the *Victims of Crime Act of 1984* to provide assistance and grants for victim services throughout the nation. Funding for the CVF is generated from criminal fines, forfeited bail bonds, penalties, and special assessments collected from offenders convicted of federal crimes. The audit is in process and includes a risk assessment of OJP's management of the CVF with a preliminary objective to assess the risk associated with managing funding increases. We anticipate releasing the report at the end of the year.

## **8. Whistleblower Ombudsperson**

The OIG's Whistleblower program continues to be an important source of information regarding waste, fraud, and abuse within the Department, and to perform an important service by allowing Department employees to come forward with such information. As publicity about retaliation against whistleblowers from across the federal government continues to receive widespread attention, it is particularly important that the Department act affirmatively to ensure that whistleblowers feel protected and, indeed, encouraged to come forward.

The OIG is requesting additional resources in this budget request for enhanced protection of whistleblowers protection with an emphasis on the FBI. The OIG plays a pivotal and particularly labor-intensive role in fielding and investigating allegations of whistleblower retaliation against FBI employees. If a retaliation complaint states a cognizable claim, the OIG investigates the allegations "to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken" for a protected disclosure. 28 C.F.R. § 27.3(d). The OIG has 240 days to make this determination unless granted an extension by the complainant. Id. § 27.3(f). Aggressive OIG efforts to enhance FBI employees' awareness of their rights will likely increase the number of whistleblower retaliation complaints this office receives each year. Protecting whistleblower rights has been one of the Inspector General's highest priorities since he took office. Unfortunately, with limited resources and staffing we have had to go beyond deadlines and obtain extensions from whistle blowers, further delaying the investigation and ultimate resolution of these cases.

The OIG received a total of 18 new FBI whistleblower retaliation complaints in 2015, and initiated 7 new investigations. We believe that the numbers will only continue to increase as there is increased focus on whistleblowers in general.

The OIG is partnering with the FBI in the development of specialized training that will highlight the particular requirements applicable to FBI employees.

The OIG also continues to utilize the tracking system developed through the OIG Ombudsperson Program to ensure that it is handling these important matters in a timely manner. The OIG continuously enhances the content on its public website, [oig.justice.gov](http://oig.justice.gov). The table below presents important information.



**Whistleblower Program**  
**October 1, 2014–March 31, 2015**

Employee complaints received	211
Complainants asserting to be whistleblowers	17
Employee complaints opened for investigation by the OIG	88
Employee complaints that were referred by the OIG to the components for investigation	88
Employee complaint cases closed by the OIG	62

The OIG has continued to refine its internal mechanisms to ensure that the OIG is promptly reviewing whistleblower submissions and communicating with those who come forward with information in a timely fashion.

## 9. Congressional Testimony



In 2015, the Inspector General testified before Congress on the following occasions:

- “Implementing Solutions: The Importance of Following through on GAO and OIG Recommendations” before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Regulatory Affairs and Federal Management on December 10, 2015
- “Inspector General Access to All Records Needed For Independent Oversight” before the U.S. Senate Committee on the Judiciary on August 5, 2015
- “Oversight of the Bureau of Prisons: First-Hand Accounts of Challenges Facing the Federal Prison System” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on August 4, 2015
- “Watchdogs Needed: Top Government Investigator Positions Left Unfilled for Years” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on June 3, 2015
- “Fiscal Year 2016 Funding Request and Budget Justification for the U.S. Department of Justice” before the U.S. Senate Committee on Appropriations, Subcommittee on Commerce, Justice, Science and Related Agencies on May 7, 2015



- “Analyzing Misconduct in Federal Law Enforcement” before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations on April 15, 2015
- “The Department of Justice Office of the Inspector General’s Report on the Handling of Sexual Harassment and Misconduct Allegations by the Department’s Law Enforcement Components” before the U.S. House of Representatives Committee on Oversight and Government Reform on April 14, 2015
- Whistleblower Retaliation at the FBI: Improving Protections and Oversight” before the U.S. Senate Committee on the Judiciary on March 4, 2015
- Oversight Hearing of the Department of Justice, Commerce, and NASA before the U.S. House of Representatives Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies on February 25, 2015
- Improving the Efficiency, Effectiveness, and Independence of Inspectors General” before the U.S. Senate Committee on Homeland Security and Governmental Affairs on February 24, 2015
- “Inspectors General: Independence, Access and Authority” before the U.S. House of Representatives Committee on Oversight and Government Reform on February 3, 2015

## **D.2. Support for the Department’s Savings and Efficiencies Initiatives**

In support of the DOJ’s SAVE initiatives, the OIG contributed to the Department’s cost-saving efforts in FY 2015, including:

- *Increasing the use of self-service online booking for official travel.* The OIG’s online booking rate for FY 2015 official travel was 92% (which is 24% above the Department’s on-line rate of 68%) for savings of more than \$26,662 over agent-assisted ticketing costs. Online reservations cost \$25.00 less than agent-assisted transactions.
- *Using non-refundable airfares rather than contract airfares or non-contract refundable fares (under appropriate circumstances).* Through September 2015, the OIG realized cost savings of more than \$17,360 by using non-refundable tickets.
- *Increased use of video conferencing.* The OIG saved training and travel dollars, as well as productive staff time while in travel status, by utilizing increased video teleconferencing for all applicable OIG-wide training.

Getting the most from taxpayer dollars requires ongoing attention and effort. The OIG continues to look for ways to use its precious resources wisely and to examine how it does business to further improve efficiencies and reduce costs.

## **E. Challenges**

Like other organizations, the OIG must confront a variety of internal and external challenges that affect its work and impede progress towards achievement of its goals. These include the decisions Department employees make while carrying out their numerous and diverse duties, which affects the number of allegations the OIG receives; Department support for the OIG’s mission; and financial support from the OMB and Congress.



For the OIG to conduct effective oversight, it must have complete and timely access to all records in the Department's possession that the OIG deems relevant to its review. Most of the OIG's 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 the OIG has had issues arise with timely access to certain records due to the Department's view that access was limited by other laws. For a review to be truly independent, an Inspector General must have the authority to determine what agency records are relevant and necessary. Recent legislative changes are expected to result in more timely production of all relevant materials from the Department to the OIG.

The limitation on the OIG's jurisdiction has also been an ongoing impediment to strong and effective independent oversight over agency operations. While the OIG has jurisdiction to review alleged misconduct by non-lawyers in the Department, it does not have 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 OPR office. As a result, these types of misconduct allegations against Department lawyers, including any that may be made against the most senior Department lawyers (including those in Departmental leadership positions), are handled differently than those made against agents or other Department employees. The OIG has long questioned this distinction between the treatment of misconduct by attorneys acting in their legal capacity and misconduct by others, and this disciplinary 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.

The OIG's greatest asset is its highly dedicated personnel, so strategic management of human capital is paramount to achieving organizational performance goals. In FY 2015, the OIG has been very successful in recruiting and hiring high quality talent to fulfill its staffing complement. In this competitive job market, the OIG must make every effort to maintain and retain its talented workforce. The OIG's focus on ensuring that its employees have the appropriate training and analytical and technological skills for the OIG's complex mission will continue to bolster its reputation as a premier federal workplace, and improve retention and results. The length of time it takes to conduct more complex audits, investigations, and reviews is directly impacted by the number of experienced personnel the OIG can devote to these critical oversight activities.



## II. Summary of Program Changes

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Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>Whistleblower Protection Program</b>	Strengthen the protection of civilian federal whistleblowers	6	6	\$1,202	32
<b>IT and telecommunication upgrades</b>	Support critical OIG mission support activities	0	0	940	37
				<b>\$2,142</b>	



### **III. Appropriations Language and Analysis of Appropriations Language**

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For necessary expenses of the Office of Inspector General, [\$93,709,000] \$97,814,000, including not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

#### **A. Analysis of Appropriations Language**

No substantive changes



## IV. Program Activity Justification

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### A. Office of the Inspector General

OIG	Direct Pos.	Estimate FTE	Amount
2015 Enacted	474	444	\$88,577,000
2016 Enacted	474	455	93,709,000
Adjustment to base and Technical Adjustments	0	0	1,963,000
2017 Current Services	474	455	95,672,000
2017 Program Increases	6	6	2,142,000
2017 Request	480	461	97,814,000
<b>Total Change 2016-2017</b>	<b>6</b>	<b>6</b>	<b>\$4,105,000</b>

OIG IT Portfolio Breakout	Direct Pos.	Estimate FTE	Amount
2015 Enacted	12	12	\$6,005,000
2016 Enacted	12	12	6,597,000
Adjustments to Base and Technical Adjustments			157,000
2017 Current Services	14	14	6,754,000
2017 Program Increases			940,000
2017 Program Offsets			0
2017 Request	14	14	7,694,000
<b>Total Change 2016-2017</b>	<b>2</b>	<b>2</b>	<b>\$1,097,000</b>

### B. Program Description

The OIG operates as a single decision unit encompassing audits, inspections, investigations, and reviews.



C. Performance and Resource Tables

PERFORMANCE AND RESOURCE TABLE (Goal 1)									
Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.									
WORKLOAD/RESOURCES	Actual		Projected		Changes		Requested (Total)		
	FY 2015		FY 2016		Current Services Adjustment and FY 2017 Program Changes		FY 2017 Services		
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	FY 2015		FY 2016		FY 2017		FY 2017		
	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	
	440	\$88,577	444	\$88,458	455	\$93,709	461	\$97,814	
		[\$11,242]		[\$11,242]		[\$11,484]		[\$11,653]	
Performance Measure									
Number of Cases Opened per 1,000 DOJ employees:									
Fraud*									
Bribery*				0.47					
Rights Violations*				0.10					
Sexual Crimes*				0.12					
Official Misconduct*				0.39					
Theft*				1.19					
				0.17					
Workload									
Investigations closed		310		357		310		0	310
Integrity Briefings/Presentations to DOJ employees		80		82		80		0	80
DOJ employees at Integrity Briefings		3,500		3,975		3,500		0	3,500

\* Indicators for which the OIG only reports actuals.



PERFORMANCE AND RESOURCES TABLE (Goal 1) (continued)						
Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews						
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.						
OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.						
WORKLOAD/RESOURCES	Target	Actual	Projected	Changes	Resources (FTE)	
	FY 2015	FY 2015	FY 2016	Current Services Adjustment and FY 2017 Program Changes	FY 2017 Requirer	
<b>Total Costs and FTE</b> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	FTE \$000 440 \$48,577 [\$11,242]	FTE \$000 444 \$88,438 [\$11,242]	FTE \$000 455 \$93,709 [\$11,484]	FTE \$000 6 \$4,105 [\$169]	FTE \$000 461 \$97,814 [\$11,653]	
<b>Performance Measure</b>						
<b>Intermediate Outcome</b> Percentage of Investigations closed or referred for prosecution within 6 months **	75%	76%	N/A			N/A
Percentage of BOP Investigations closed or referred for prosecution within 6 months of being opened [Refined Measure]**	N/A					
Number of closed Investigations substantiated*						
Arrests *						
<b>End Outcome</b>						
Convictions *		226	75%			75%
Administrative Actions *		96				
Response to Customer Surveys:		73				
Report completed in a timely manner (%)	90%	225	90%			
Issues were sufficiently addressed (%)	90%	97%	90%			90%
		100%	90%			90%

\* Indicators for which the OIG only reports actuals.

\*\* Beginning in FY 2016 this measure will be replaced with "BOP" Investigations closed or referred for prosecution. This change would accurately reflect the performance measure found in our special agents' goals documents throughout the Division.



**DOJ Strategic Plan:** Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

**OIG General Goal #1:** Detect and deter misconduct in programs and operations within or financed by the Department.

### **Data Definition, Validation, Verification, and Limitations**

#### **A. Data Definition:**

The OIG does not project targets and only reports actuals for workload measures, the number of closed investigations substantiated, arrests, convictions, and administrative actions. The number of convictions and administrative actions are not subsets of the number of closed investigations substantiated.

#### **B. Data Sources, Validation, Verification, and Limitations:**

Investigations Data Management System (IDMS) – consists of a computer-based relational database system that became operational in June 2005.\*

The database administrator runs routine maintenance programs against the database. Database maintenance plans are in place to examine the internal physical structure of the database, backup the database and transaction logs, handle index tuning, manage database alerts, and repair the database if necessary. Currently, the general database backup is scheduled nightly and the transaction log is backed up in 3-hour intervals. We have upgraded to a web-based technology.

Investigations Division Report of Investigation (ROI) Tracking System – a web-based SQL-Server application that tracks all aspects

of the ROI lifecycle. The ROI and Abbreviated Report of Investigation (ARO) are the culmination of OIG investigations and are submitted to DOJ components.

These reports are typically drafted by an agent and go through reviews at the Field Office and at Headquarters levels before final approval by Headquarters.

The ROI Tracking System reads data from IDMS. By providing up-to-the-minute ROI status information, the Tracking System is a key tool in

improving the timeliness of the Division's reports. The ROI Tracking System also documents the administration of customer satisfaction questionnaires sent with each completed investigative report to components and includes all historical data. The system captures descriptive information as well as questionnaire responses.

Descriptive information includes the questionnaire form administered, distribution and receipt dates, and component and responding official. The database records responses to several open-ended questions seeking more information on deficiencies noted by respondents and whether a case was referred for administrative action and its outcome. Questionnaire responses are returned to Investigations Headquarters and are manually entered into the Tracking System by Headquarters personnel.

No data validation tools, such as double key entry, are used though responses are entered through a custom form in an effort to ease input and reduce errors.

Investigations Division Investigative Activity Report – Most of the data for this report is collected in IDMS. The use of certain investigative techniques and integrity briefing activities are also tracked externally by appropriate Headquarters staff.

#### **C. FY 2015 Performance Report:**

For the workload measure "Investigations Closed," the OIG has plans to focus on more complex and document-intensive cases (e.g., grant and contract fraud) that require more in-depth financial and forensic analysis. The OIG is also diversifying its caseload to extend more investigative coverage to other Department components.

\*In FY 2016, the IDMS Web Interface will also be available for usage.



Decision Unit/Program: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #1: Detect and deter misconduct in programs and operations within or financed by the Department.									
Performance Measure Report									
Workload	FY 2012		FY 2014		FY 2016		FY 2017		
Number of Cases Opened per 1,000 DOJ employees:	Actuals	Actuals	Actuals	Actuals	Actuals	Actuals	Actuals	Target	Target
Fraud*	0.58	0.51	0.63	0.67	0.67	0.67	0.47	*	*
Bribery*	0.21	0.20	0.16	0.15	0.15	0.15	0.10	*	*
Rights Violations*	0.10	0.13	0.17	0.19	0.19	0.19	0.12	*	*
Sexual Crimes*	0.40	0.37	0.35	0.43	0.43	0.43	0.39	*	*
Official Misconduct*	1.00	1.28	1.48	1.34	1.34	1.34	1.19	*	*
Theft*	0.22	0.22	0.22	0.10	0.10	0.10	0.17	*	*
Investigations closed	356	361	366	402	402	402	357	310	310
Integrity Briefings and Presentations to DOJ employees	89	134	85	91	91	91	82	80	80
DOJ employees attending Integrity Briefings	3,551	7,200	3,710	4,732	4,732	4,732	3,975	3,500	3,500
Intermediate Outcome									
Percentage of Investigations closed or referred for prosecution within 6 months**	N/A	71	72	71	71	71	76	NA	N/A
Percentage of BOP Investigations closed or referred for prosecution within 6 months of being opened [Refined Measure]**	N/A	N/A	N/A	N/A	N/A	N/A	N/A	75	75
Number of closed Investigations substantiated (QSR Measure)*	223	215	222	243	243	243	226	*	*
Arrests*	113	90	86	84	84	84	96	*	*
End Outcome									
Convictions*	104	94	63	88	88	88	73	*	*
Administrative Actions	198	192	266	219	219	219	225	*	*
Response to Customer Surveys:									
Report completed in a timely manner (%)	100%	100%	100%	95%	95%	95%	90%	90%	90%
Issues were sufficiently addressed (%)	100%	100%	99%	99%	99%	99%	90%	90%	90%

\* Indicators for which the OIG only reports actuals.

\*\*Beginning in FY 2016 this measure will be replaced with "BOP" Investigations closed or referred for prosecution. This change would accurately reflect the performance measure found in our special agents' goals documents throughout the Division.



Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.									
Workload/Resourcing									
	Actual		Target		Changes		Client Services		
	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE \$000
Total Costs and FTE	440	\$88,577 [\$11,242]	444	\$88,458 [\$11,242]	455	\$93,709 [\$11,484]	6	\$4,105 [\$169]	461 \$97,814 [\$11,653]
(Reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total.)									
Performance Measure									
Workload									
Audit and E&I assignments initiated	92		106		92				92
Percent of Audit CSTAO* resources devoted to security reviews of major Dept. information systems	80%		88%		80%				80%
Percent of internal DOJ audit assignments that assess component performance measures	18%		42%		18%				18%
Percentage of E&I assignments opened and initiated during the fiscal year devoted to Top Management Challenges	70%		80%		70%				70%
Percent of direct resources devoted to audit products related to Top Management Challenges, and GAO and JMD-identified High-Risk Areas	80%		96%		85%				85%
Intermediate Outcome									
Audit and E&I assignments completed	87		109		87				87

\*Computer Security & Information Technology Audit Office



Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
DUS General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.									
WORKLOAD/RESOURCES									
	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
Total Costs and FTE	440	\$88,577	444	\$88,458	455	\$93,709	6	\$4,105	461
(reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		(\$11,242)		(\$11,242)		(\$11,484)		(\$193)	
<b>Performance Measure</b>									
<b>Intermediate Outcome</b>									
Percent of Audit resources devoted to reviews of grants and grant management	40%			43%		35%			35%
Percent of Audit resources devoted to reviews of contracts and contract management	NA			13%		10%			10%
Components receiving information system audits	5			8		5		1	6
Products issued to the Dept. containing significant findings or information for management decision-making by Audit & E&I**	80			82		NA			NA
Percentage of products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I (Refined Measure)**	NA			100		92%			92%
Percent of less complex internal DOJ reviews to be provided to the IG as a working draft within an average of 8 months	35%			100%		35%			35%
Percent of more complex internal DOJ reviews to be provided to the IG as a working draft within an average of 11 months	35%			71%		35%			35%
Percent of contract, grant, Intra Government Agreements, and other external audits to be completed in draft within 8 months**	50%			57%		NA			NA
Percent of grant, COOIS, equitable sharing, Intra Government Agreements, and other external audits to be completed in draft within 8 months (Refined Measure)**	NA			58%		50%			50%
Percent of less complex internal DOJ audits to be completed as a working draft within 8 months**	40%			40%		NA			NA
Percent of less complex internal DOJ audits to be provided to the IG as a working draft within 8 months (Refined Measure)**	NA			40%		40%			40%
Percent of more complex internal DOJ audits to be completed as a working draft within 13 months**	45%			83%		NA			NA
Percent of more complex internal DOJ audits to be provided to the IG as a working draft within 13 months (Refined Measure)**	NA			89%		45%			45%

\*\*This measure is being refined for clarification and consistency.



Decision Unit: OIG/Audits, Inspections, Investigations, and Reviews

DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.

#### **Data Definition, Validation, Verification, and Limitations**

##### **A. Data Definition:**

"Assignment" covers all audits (including Internals, CFO Act, and externals, but not Single Audits), evaluations, and inspections. "Assignments" may also include activities that do not result in a report or product (e.g., a memorandum to file rather than a report), or reviews initiated and then cancelled.

##### **B. Data Sources, Validation, Verification, and Limitations:**

Project Resolution and Tracking (PRT) system- PRT was implemented on April 18, 2011; this OIG system was designed to track audits, evaluations, and reviews from initiation to completion, including the status of recommendations. The system provides senior management with the data to respond to information requests and track and report on current status of work activities.

##### **C. FY 2015 Performance Report: N/A**



Decision Unit/Program: OIG/Audits, Inspections, Investigations, and Reviews									
DOJ Strategic Plan: Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.									
OIG General Goal #2: Promote the efficiency and effectiveness of Department programs and operations.									
Performance Measure Report									
Measure	FY 2012		FY 2014		FY 2016		FY 2018		Target
	Actual	Goal	Actual	Goal	Actual	Goal	Actual	Goal	
<b>Monitored</b>	124	116	103	94	92	106	92	92	
Audit and E&I assignments initiated									
Percent of Audit CSITAO resources devoted to security reviews of major Dept. information systems	92%	97%	75%	98%	80%	88%	80%	80%	
Percent of Internal DOJ audit assignments that assess component performance measures	20%	42%	40%	47%	18%	42%	18%	18%	
Percentage of E&I assignments opened and initiated during the fiscal year devoted to Top Management Challenges.	NA	NA	NA	89%	70%	80%	70%	70%	
Percent of direct resources devoted to audit products related to Top Management Challenges, and GAO and JMD-Identified High-Risk Areas	86%	93%	96%	96%	80%	96%	85%	85%	
<b>Intermediate Outcome</b>									
Audit and E&I Assignments completed									
Percent of Audit resources devoted to reviews of grants and grant management	99	109	117	104	87	109	87	87	
Percent of Audit resources devoted to reviews of contracts and contract management	39%	42%	40%	54%	50%	43%	35%	35%	
Components receiving information system audits	NA	NA	NA	NA	NA	13%	10%	10%	
Products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I**	8	11	9	5	8	5	5	6	
Percentage of products issued to the Dept. containing significant findings or information for management decision-making by Audit and E&I [Refined Measure]**	99	187	98	88	80	82	NA	NA	
Percent of less complex Internal DOJ reviews to be provided to the IG as a working draft within an average of 8 months	NA	NA	NA	NA	NA	100%	92%	92%	
Percent of more complex Internal DOJ reviews to be provided to the IG as a working draft within an average of 11 months	NA	NA	NA	100%	35%	100%	35%	35%	
Percent of contract, grant, Intra Government Agreements, and other external audits to be completed in draft within 8 months**	NA	NA	NA	NA	35%	71%	35%	35%	
Percent of grant, CODIS, equitable sharing, Intra Government Agreements, and other external audits to be completed in draft within 8 months [Refined Measure]**	NA	NA	49%	51%	50%	57%	NA	NA	
Percent of less complex Internal DOJ audits to be completed as a working draft within 8 months**	NA	NA	NA	NA	NA	58%	50%	50%	
Percent of less complex Internal DOJ audits to be provided to the IG as a working draft within 8 months [Refined Measure]**	NA	NA	NA	50%	40%	40%	NA	NA	
Percent of more complex Internal DOJ audits to be completed as a working draft within 13 months**	NA	NA	NA	NA	NA	40%	40%	40%	
Percent of more complex Internal DOJ audits to be provided to the IG as a working draft within 13 months [Refined Measure]**	NA	NA	NA	63%	45%	83%	NA	NA	
Percent of more complex Internal DOJ audits to be provided to the IG as a working draft within 13 months [Refined Measure]**	NA	NA	NA	NA	NA	83%	45%	45%	

\*\*This measure is being refined for clarification and consistency.



## **D. Performance, Resources, and Strategies**

### **1. Performance Plan and Report for Outcomes**

As illustrated in the preceding Performance and Resources Tables, the OIG helps the Department achieve its strategic goals and promotes efficiency, integrity, economy, and effectiveness through conduct of its audits, inspections, investigations, and reviews. For the Department's programs and activities to be effective, Department personnel, contractors, and grantees must conduct themselves in accordance with the highest standards of integrity, accountability, and efficiency. The OIG investigates alleged violations of criminal and civil laws, regulations, and ethical standards arising from the conduct of the Department's employees in their numerous and diverse activities.

The OIG continues to review its performance measures and targets, especially in light of the changing nature of the cases it investigates and the Department programs it audits and reviews. Today's work is much more complex and expansive than it was only a few years ago. The number of documents to be reviewed, the number of people to interview, the amount of data to examine, and the analytical work involved in many OIG products are significantly greater than in prior years. The OIG ensures sufficient time and resources are devoted to produce high-quality, well-respected work.

### **2. Strategies to Accomplish Outcomes**

The OIG will devote all resources necessary to investigate allegations of bribery, fraud, abuse, civil rights violations, and violations of other laws and procedures that govern Department employees, contractors, and grantees, and will develop cases for criminal prosecution and civil and administrative action. The OIG will continue to use its audit, inspection, evaluation, and attorney resources to review Department programs or activities identified as high-priority areas in the Department's Strategic Plan, and focus its resources to review the Department's Top Management and Performance Challenges.



## V. Program Increases by Item

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### A. Item Name: Whistleblower Protection

Strategic Goal(s) & Objective(s): 2.6 Protect the federal fisc and defend the interests of the United States

Organizational Program: OIG

Program Increase: Positions 6 Agt/Atty/Other 0/5/1 FTE 6 Dollars \$1,202,000

#### 1. Description of Item

As part of the OIG's ongoing efforts to strengthen the protection of FBI and other DOJ whistleblowers from reprisal and to enhance training and outreach regarding such efforts, the OIG is requesting a Program Increase of \$1,202,000. Specifically, the OIG intends to enhance its whistleblower oversight program by increasing staffing within the Oversight and Review (O&R) Division. The O&R Division currently has primary responsibility for handling whistleblower cases and also investigates other highly sensitive matters. The additional funding will enable the OIG to hire one supervisor, the equivalent of four full time investigative counsels, and one full time analyst or paralegal specialist. The resources will enable the OIG to have a full-time supervisor for whistleblower matters, including investigative matters, training, outreach, and to enhance the ability to keep pace with the significant increase in whistleblower retaliation cases described below and the further increases anticipated as a result of training, outreach, and the expected regulatory expansion of the scope of whistleblower protections, as described below.

#### 2. Justification

Whistleblowers provide an important public service to our nation by improving government efficiency, transparency, and accountability. These virtues not only save taxpayer dollars, but also more closely align the reality of federal executive agency operations with our nation's ideals, chief among them integrity and freedom from fear. The OIG has been at the forefront in recognizing the importance of whistleblowers and in its commitment to taking prompt action to pursue any allegations of reprisal against them.

Federal law generally prohibits retaliation against federal government employees or applicants for employment for reporting wrongdoing, or whistleblowing. 5 U.S.C. §§ 2301-2306. Under these provisions, most federal employees pursue whistleblower retaliation complaints with the Office of Special Counsel and the Merit Systems Protection Board. However, the FBI is excluded from this process. Instead, the Attorney General was required to establish regulations to ensure that FBI employees are protected against retaliation for reporting wrongdoing. Under these regulations, codified at 28 C.F.R. Part 27, the OIG plays a pivotal and particularly labor-intensive role in fielding and investigating allegations of whistleblower retaliation against FBI employees. If a retaliation complaint states a cognizable claim, the OIG investigates the allegations "to the extent necessary to determine whether there are reasonable grounds to believe that a reprisal has been or will be taken" for a protected disclosure. 28 C.F.R. § 27.3(d). The OIG has 240 days to make this determination unless granted an extension by the complainant. Id. § 27.3(f).



As part of its investigation, the OIG obtains relevant documents from the FBI and from any other relevant source, including the complainant. These documents may include, for example, e-mails and personnel files. The OIG interviews witnesses with relevant knowledge, typically including the complainant, the person(s) who allegedly retaliated against the complainant, and others (often other FBI employees working in the same unit) in a position to have knowledge of the relevant facts and circumstances.

If the OIG finds that there is no reasonable basis to believe that a reprisal occurred, it provides a draft report to the complainant with factual findings and conclusions justifying termination of the investigation. If the OIG determines that there are reasonable grounds to believe that there has been or will be a reprisal for a protected disclosure, it prepares a final report of its conclusions, along with any findings and recommendations for corrective action, to the Department's Office of Attorney Recruitment and Management. Id. § 27.4(a).

The number of FBI whistleblower retaliation complaints has proliferated in recent years. The number of such complaints received by the OIG has risen from 5 in 2007 to 18 in 2014 and 18 more in 2015. Similarly, after accepting for investigation an average of 2 complaints per year between 2007 and 2013, the OIG increased its acceptance of cases for investigation in 2014 to 9 complaints. Seven additional complaints were accepted for investigation in 2015. As a result, O&R is currently investigating 11 separate whistleblower retaliation claims. The O&R Division currently has 14 staff attorneys.

The OIG has many priorities competing for its limited time and staff resources. The O&R Division also investigates highly sensitive allegations involving DOJ employees, often at the request of the Attorney General, senior Department managers, or Congress, and regularly conducts systemic reviews of national security programs and other similarly complex and consequential matters. For example, the O&R Division is currently conducting a congressionally mandated review of the FBI's use of Section 215 authority under the *Foreign Intelligence Surveillance Act* (FISA) from 2012 through 2014. In recent years the O&R Division has been responsible for numerous national security reviews, including reviews of the FBI's use of Section 215, National Security Letters, and Section 702; the Department's use of material witness warrants in terrorism investigations; and the sharing of information among government agencies prior to the Boston Marathon bombing. Other major reviews undertaken by the O&R Division include the investigations of ATF's Operation Fast and Furious and improper hiring practices in various Department components. The O&R Division's ability to investigate and produce reports on such complex and consequential matters risks being adversely impacted by the growing time commitment required to conduct FBI whistleblower retaliation investigations with existing staff resources.

The complexity of FBI whistleblower retaliation cases and the time required to investigate them varies from case to case but all of them require a substantial investment in time. Even the complaints that ultimately are not accepted for investigation because of a failure to meet the elements required under the DOJ regulations receive careful analysis by management in the O&R Division as well as the OIG Front Office, including the Inspector General, before a declination decision is made. Where a complaint meets the requirements of the regulation and is accepted for investigation, it typically requires the attention of one attorney on at least a half-time basis (as well as additional part-time support from an agent, program analyst, and/or paralegal) for at least the 240-day investigation period provided under the regulations. Some



cases require the full-time attention of an attorney for the entire investigative period. In short, whistleblower retaliation cases previously comprised a minor part of O&R's workload but now represent the largest single category of investigations on the O&R docket in terms of attorney hours. The rapid expansion of this category of investigation is having an inevitable and growing impact on the ability of O&R to conduct investigations of other matters of great importance to the OIG and the Department.

This rapid increase in the FBI whistleblower caseload has complicated efforts to comply with the relevant regulatory timelines. As noted above, the regulations provide for the OIG to complete its investigation within 240 days unless the complainant consents to an extension. In recent years, the median time for the OIG to complete an investigation (including writing a report of investigation or final termination report) was 363 days. The longest was 478 days. The time required by the DOJ to complete FBI whistleblower retaliation cases was the subject of a recent critical Government Accountability Office report, *Whistleblower Protection—Additional Actions Needed to Improve DOJ's Handling of FBI Retaliation Complaints*, GAO-15-112. While the OIG is only responsible for the intake and investigation phases of these cases and the time taken by the OIG to complete its role in this process was not the largest part of the problem cited by GAO, we are committed to improving the timeliness of OIG investigations.

The OIG requires additional resources to manage the growing whistleblower case load thoroughly, fairly, and expeditiously—a financial need made more urgent by three recent developments, each of which will likely further increase the number of FBI whistleblower cases the OIG receives: (1) amplified OIG outreach, training, and education efforts; (2) additional procedures to ensure whistleblowers have enhanced opportunities to seek a full OIG investigation; and (3) a recent DOJ proposal to increase the number of offices and officials to whom disclosures may be made in order to be deemed “protected” under the FBI Whistleblower Regulations (Designated Officials). The OIG believes that these three factors will accelerate the already sharp increase in the number of whistleblower retaliation complaints this office receives each year.

Additionally, concerted OIG efforts to work with the FBI to enhance FBI employees' awareness of their rights will likely increase in the number of whistleblower retaliation complaints this office receives each year. Protecting whistleblower rights has been one of the Inspector General's highest priorities since he took office. He established a Whistleblower Ombudsperson Program shortly after becoming Inspector General in 2012 and has been significantly ramping up training and awareness programs as well as the OIG's ability to thoroughly and efficiently respond to complaints of illegal retaliation against FBI whistleblowers. To lead this aggressive new program, he assigned a senior attorney from his Front Office staff, and the OIG developed a video entitled “Reporting Wrongdoing: Whistleblowers and their Rights,” which discusses whistleblower rights and protections applicable to all DOJ employees, and specifically points out where the rules for FBI employees differ from those applicable to others. The OIG has been working with the FBI to create a specialized training program that recently was rolled out as required viewing for all FBI employees. This interactive program highlights the specific requirements and procedures for FBI whistleblowers, and gives them guidance as to how to make protected disclosures and how to pursue claims of reprisal for having done so. The OIG also is working with other Department components to develop particularized training on whistleblower rights and protections. The OIG has a dedicated [“Whistleblower Protection”](#) page on its website, available to FBI employees and others with a section on FBI whistleblowers that



we have enhanced to include additional links to the applicable regulation and other information specific to FBI employees. The OIG has also reached out to the whistleblower community, so that we can hear from them first-hand about issues and challenges that concern them. It is inevitable that these substantial and ongoing efforts to educate FBI and other DOJ employees regarding their rights and protections will continue the significant upward trend we have experienced in the number of these matters, and increase the need for greater OIG staffing to address it.

Further, the OIG has instituted new procedures for those whistleblower retaliation cases where the OIG has decided not to initiate an investigation that will require a greater expenditure of resources on whistleblower matters and will likely increase the number of whistleblower retaliation complaints this office investigates each year. A substantial proportion of the retaliation complaints submitted to the OIG do not require or call for the opening of an investigation because the facts alleged in the complaint, even if accepted as true, would not be sufficient to satisfy an essential element of a retaliation claim under the regulation. In the past, the OIG has closed such non-cognizable complaints by means of brief declination letters. In the interest of enhancing the transparency of our review process and giving whistleblowers the fullest possible opportunity to provide additional information that may be relevant to our determinations, the OIG is now providing whistleblowers more detailed information in our declination letters: identifying the deficiencies in complaints, including identifying the specific element(s) of a claim of reprisal under the regulations that are absent and informing the employee filing the complaint that we are providing them with an opportunity to submit any additional relevant information or comment on the OIG's initial determination prior to the OIG's declination of the complaint becoming final. These changes in practice go beyond the regulatory requirements, and will help the OIG ensure that all complainants have an opportunity to provide additional information or written comments before OIG closes their complaints consistent with our desire to provide the maximum possible support for whistleblowers from the FBI and throughout the DOJ. The Government Accountability Office (GAO) found that "if implemented effectively, these planned actions will help OIG ensure that all complainants have an opportunity to provide additional information or written comments before OIG closes their complaints and those complainants will receive the information they need to make decisions about their complaints." This additional procedure increases the time needed for the initial review of all complaints and is likely to increase the number of cases the OIG accepts for full investigation.

A third factor likely to accelerate the already steep increase in the number of whistleblower retaliation complaints the OIG investigates each year is a recent DOJ proposal to increase the number of offices and officials to whom disclosures may be made in order to be deemed "protected" under the FBI Whistleblower Regulations (Designated Officials). The current restriction on who qualifies as a Designated Official increases the likelihood that a whistleblower claim will be terminated as non-cognizable during the initial stages of an OIG investigation and that an otherwise meritorious disclosure will receive no protection under the law. For example, a recent report by the GAO stated:

DOJ terminated at least 17 whistleblower complaints in recent years in part because a disclosure was made to someone in the employee's chain of command or management, such as a supervisor, who was not one of the nine high-level FBI or DOJ entities designated under the [FBI Whistleblower Regulations] to receive such disclosures. [D]ismissing retaliation complaints made to an employee's supervisor or someone in that person's chain of command leaves some FBI whistleblowers – such as the 17



complainants we identified – without protection from retaliation. By dismissing potentially legitimate complaints in this way, DOJ could deny some whistleblowers access to recourse, permit retaliatory activity to go uninvestigated, and create a chilling effect for future whistleblowers.

The OIG supports broadening the category of persons to whom FBI employees can make protected disclosure of wrongdoing. Increasing the number of Designated Officials to include the second-highest ranking official in any FBI field office (which is typically any of 2-3 Assistant Special Agents in Charge), as the DOJ recently has proposed and which the OIG supports, will result in more whistleblower complaints being filed with and investigated by the OIG.

Lastly, recent legislation has expanded the OIG's responsibilities to include new categories of whistleblower retaliation cases. Section 828 of the *National Defense Authorization Act*, codified at 41 U.S.C. § 4712, requires the OIG to investigate certain whistleblower retaliation claims filed by an employee of a contractor, subcontractor, or grantee with respect to any component of the Department—not just the FBI, as part of a 4-year pilot program in the non-defense agencies. And pursuant to Presidential Policy Directive/PPD-19, the OIG now has jurisdiction to investigate allegations that actions affecting access to classified information throughout the Department were taken in reprisal for protected whistleblowing. Although the OIG has not yet received a large number of retaliation complaints pursuant to these responsibilities, we believe that this number is likely to increase, perhaps significantly, as the OIG and the Department provide additional training and education to make such employees aware of this statutory protection.

### 3. Impact on Performance

At current staffing levels, the rapid increase and expected further increase in FBI whistleblower cases—which OIG is required to investigate by regulation and are not discretionary—inevitably reduces the other kinds of critical investigations that the O&R Division can undertake in a timely fashion. Without the requested increase, the OIG will not be able to expand our whistleblower oversight without adversely impacting our other responsibilities.

#### Funding (Dollars in Thousands)

##### Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty/Other	FTE	\$0
0	0/0	0	\$0	0	0/0	0	\$0	0	0/0/0	0	\$0



Personnel Increase Cost Summary

Type of Position	Modular cost per Position (\$000)	Number of FTE's Requested	FY 2017 Requested (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
Attorney (905)	\$206	5	\$1,030	\$443	\$0
Paralegals/Other Law (900-998)	\$172	1	\$172	\$74	\$0
Total Personnel		6	\$1,202	\$517	\$0

Total Request for this Item

	Pos	Agt/Atty/Other	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2016) (\$000)	FY 2019 Net Annualization (Change from 2017) (\$000)
Current Services	0	0/0/0	0	\$0	\$0	\$0	\$0	\$0
Increases	6	0/5/1	6	\$967	\$234	\$1,202	\$517	\$0
Grand Total	6	0/5/1	6	\$967	\$234	\$1,202	\$517	\$0

**B. Item Name: IT Telecommunication Upgrades**

Strategic Goal(s) & Objective(s): 2.6 Protect the federal fisc and defend the interests of the United States

Organizational Program: OIG

Program Increase: Positions 0 Agt/Atty 0/0 FTE 0 Dollars \$940,000

**1. Description of Item**

The OIG is requesting \$940,000 to enhance its IT and telecommunications program.

**2. Justification**

This funding will support critical OIG mission support activities. This enhancement will concentrate on replacing aging IT and telecommunications equipment that will reach its end-of-life cycle, as well as fund certain Department IT initiatives such as virtual desktops, data analytics toolset, and network infrastructure. The OIG is requesting to upgrade voice over Internet protocol (VoIP) phones and replace core Ethernet switches and routers, as well as video teleconferencing (VTC) equipment that will reach their end-of-life cycle in FY 2017.

The OIG is implementing a data analytics program to not only assist with the performance of our audits, investigations, and reviews but also accommodate the requirements of the *Digital*



*Accountability and Transparency Act of 2014 (DATA Act).* The data analytics program will provide: timely insights from the vast amounts of data already stored in DOJ databases; monitoring and forecasting of events that impact performance and operations; the ability to find, acquire, extract, manipulate, analyze, connect and visualize data; the capability to manage vast amounts of data; the ability to identify significant information that can improve decision quality; and the ability to mitigate risk. This program increase will allow the OIG to obtain the needed technology to develop risk indicators with which we can analyze large volumes of data and help us effectively orient our efforts to areas where we can make the greatest difference.

Obtaining new VoIP phone sets will utilize current Justice Uniform Telecommunications Network (JUTNet) circuits and replace aging phone systems. Replacement of these outdated systems to a newer, more cost-effective VoIP technology is in line with the Department's initiative in finding cost savings.

The OIG is constantly trying to provide peak performance with regard to IT network activity. Network performance is a key element in ensuring the OIG can fully function and provide state-of-the-art automated tools and services to employees. The additional funds will be used for e-mail, data storage, VTC, applications, VoIP, and in support of Internet protocol version 6, which is the required version of the Internet.

The OIG is in the forefront in implementing and utilizing VTC capabilities and we intend to maintain that posture. Current VTC equipment is used heavily and is used throughout the OIG for meetings, announcements, training, and interviews. This equipment is at the end of its life cycle and will need to be replaced. The replacement of this equipment will allow for the integration of video to the desktop. It will also enhance staff collaboration within the Department and hopefully within other agencies, which is also an initiative that the Administration has identified as a priority.

### **3. Impact on Performance**

Every effort has been made to maintain and utilize the existing equipment that has or will soon exhaust its life cycle. However, in order for the OIG to stay abreast of the new and emerging technology and to properly perform our mission of protecting taxpayers and timely reporting to Congress, we will have no choice but to upgrade old outdated equipment. It is imperative that our IT system and applications that support OIG operations are running efficiently and effectively by sharing information and streamlining business processes.



**Funding**  
(Dollars in Thousands)

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0	Pos	Agt/Atty	FTE	\$0
0	0/0	0	\$0	0	0/0	0	\$0	0	0/0	0	\$0

Personnel Increase cost Summary

Type of Position	Modular cost per Position (\$000)	Number of Positions Requested	FY 2017 Requested (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
	\$0	0	\$0	\$0	\$0
Total Personnel	\$0	0	\$0	\$0	\$0

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
IT Telecommunication	1	1	\$940	\$20	\$20
Total Non-Personnel	1	1	\$940	\$20	\$20

Total Request for this item

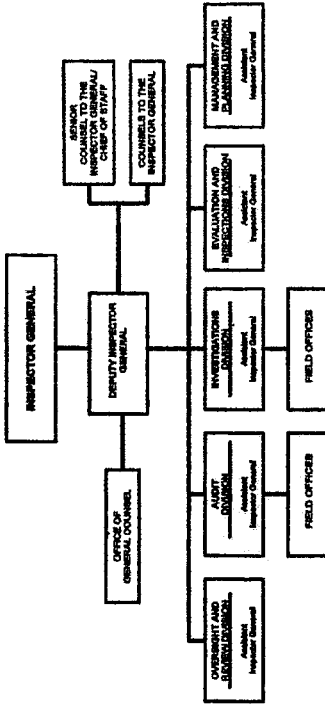
	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2016) (\$000)	FY 2019 Net Annualization (Change from 2017) (\$000)
Current Services	0	0/0	0	\$0	\$0	\$0	\$0	\$0
Increases	0	0/0	0	\$0	\$940	\$940	\$20	\$20
Grand Total	0	0/0	0	\$0	\$940	\$940	\$20	\$20



VII. EXHIBITS

A. Organizational Chart

OFFICE OF THE INSPECTOR GENERAL



Approved by: Michael H. G. Date: 9/27/12  
Inspector General



B. Summary of Requirements

Summary of Requirements  
Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted	474	423	88,577
Total 2015 Enacted		423	88,577
2016 Enacted	474	434	93,709
Base Adjustments			
Pay and Benefits	0	0	708
Domestic Rent and Facilities	0	0	1,223
Other Adjustments	0	0	32
Total Base Adjustments	0	0	1,963
Total Technical and Base Adjustments	0	0	1,963
2017 Current Services	474	434	95,672
Program Changes			
Increases:			
Whistleblower Protection	6	6	1,202
IT Telecommunication Upgrade	0	0	940
Subtotal, Increases	6	6	2,142
Total Program Changes	6	6	2,142
2017 Total Request	480	440	97,814
2016 - 2017 Total Change	6	6	4,105



B. Summary of Requirements

Summary of Requirements  
Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
OIG Audits, Inspections, Investigations, and Reviews	474	423	88,577	474	434	93,709	0	0	1,963	474	434	95,672
Total Direct	474	423	88,577	474	434	93,709	0	0	1,963	474	434	95,672
Balance Rescission			0			0						0
Total Direct with Rescission												0
Reimbursable FTE		21	88,577		21	93,709		0	1,963		21	95,672
Total Direct and Reimb. FTE		444			455			0			455	
Other FTE:												
LEAP		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		444			455			0			455	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
OIG Audits, Inspections, Investigations, and Reviews	6	6	2,142	0	0	0	480	440	97,814
Total Direct	6	6	2,142	0	0	0	480	440	97,814
Balance Rescission			0			0			0
Total Direct with Rescission									0
Reimbursable FTE		0	2,142		0	0		21	97,814
Total Direct and Reimb. FTE		6			0			461	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		6			0			461	



C. Program Changes by Decision Unit

FY 2017 Program Increases/Offsets by Decision Unit  
Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	OIG Audits, Inspections, Investigations, and Reviews				Total Increases			
		Direct Pos.	Ag./Atty.	Est. FTE	Amount	Direct Pos.	Ag./Atty.	Est. FTE	Amount
Whistleblower Protection		6	5	6	1,202	6	5	6	1,202
IT Telecommunication Upgrade		0	0	0	940	0	0	0	940
<b>Total Program Increases</b>		<b>6</b>	<b>5</b>	<b>6</b>	<b>2,142</b>	<b>6</b>	<b>5</b>	<b>6</b>	<b>2,142</b>

Program Offsets	Location of Description by Program Activity	OIG Audits, Inspections, Investigations, and Reviews				Total Offsets			
		Direct Pos.	Ag./Atty.	Est. FTE	Amount	Direct Pos.	Ag./Atty.	Est. FTE	Amount
No Program Offsets									
<b>Total Program Offsets</b>									



D. Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal and Objective

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	444	88,577		455	93,709		455	95,511		6	2,142		0	0		0	461	97,653
2.6 Protect the federal fisc and defend the interests of the United States	444	88,577		465	93,709		465	95,511		6	2,142		0	0		0	481	97,653
TOTAL	444	88,577		465	93,709		465	95,511		6	2,142		0	0		0	461	97,653



## E. Justifications for Technical and Base Adjustments

### Justifications for Technical and Base Adjustments

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 <u>2017 Pay Raise - 1.6%</u> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested, \$683,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$599,000 for pay and \$245,000 for benefits.)	0	0	844
2 <u>Annualization of 2016 Pay Raise</u> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$196,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$139,000 for pay and \$57,000 for benefits).	0	0	196
3 <u>Changes in Compensable Days</u> The decreased cost for two compensable day in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$358,000 and applicable benefits \$146,000 by 262 compensable days is -\$504,000.	0	0	-504
4 <u>Health Insurance</u> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 4.1 percent. Applied against the 2016 estimate of \$3,334,000, the additional amount required is \$126,000.	0	0	126
5 <u>Retirement</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$46,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	46
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>708</b>



## E. Justifications for Technical and Base Adjustments

### Justifications for Technical and Base Adjustments

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
1 <b>GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$15,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	15
2 <b>Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$17,000 is required to meet these commitments.	0	0	17
3 <b>Moves - FY 2017</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	0	0	1,191
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	1,223
<b>Other Adjustments</b>			
1 <b>Security Investigations</b> The \$32,000 increase reflects payments to the Office of Personnel Management for security reinvestigations for employees requiring security clearances.	0	0	32
<b>Subtotal, Other Adjustments</b>	0	0	32
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	1,963



# F. Crosswalk of 2015 Availability

## **Crosswalk of 2015 Availability** Office of the Inspector General Salaries and Expenses (Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2015 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
OIG Audits, Inspections, Investigations, and Reviews	474	423	88,577	0	0	0	0	0	474	423	88,577
<b>Total Direct</b>	<b>474</b>	<b>423</b>	<b>88,577</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>474</b>	<b>423</b>	<b>88,577</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			88,577			0	0	0			88,577
Reimbursable FTE		21			0					21	
Total Direct and Reimb. FTE		444			0					444	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>444</b>			<b>0</b>					<b>444</b>	

Reprogramming/Transfers:

Carryover:

Recoveries/Refunds:



**G. Crosswalk of 2016 Availability**

**Crosswalk of 2016 Availability**  
Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Pos.		Direct Pos.	Est. FTE	Amount
OIG Audits, Inspections, Investigations, and Reviews	474	434	93,709	0	0	0	0	0	0	474	434	93,709
<b>Total Direct</b>	<b>474</b>	<b>434</b>	<b>93,709</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>474</b>	<b>434</b>	<b>93,709</b>
Balance Rescission			0			0	0		0			0
Total Direct with Rescission			93,709			0	0		0			93,709
Reimbursable FTE		21			0						21	
Total Direct and Reimb. FTE		455			0						455	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
<b>Grand Total, FTE</b>		<b>455</b>			<b>0</b>						<b>455</b>	

**Reprogramming/Transfers:**

**Carryover:**

**Recoveries/Refunds:**



## H. Summary of Reimbursable Resources

### Summary of Reimbursable Resources

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Estimate			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Asset Forfeiture Fund	2	2	996	2	2	1,061	2	2	1,076	0	0	15
Council of the IGs on Integrity and Efficiency	0	0	44	0	0	159	0	0	131	0	0	-28
Working Capital Fund	7	7	1,728	7	7	1,887	7	7	1,927	0	0	40
Federal Bureau of Investigation	2	2	1,260	2	2	1,232	2	2	1,264	0	0	32
Federal Prison Industries	2	2	969	2	2	1,034	2	2	1,048	0	0	14
Federal Prison System	2	2	858	2	2	870	2	2	890	0	0	20
Offices, Boards, and Divisions	6	6	5,387	6	6	5,241	6	6	5,317	0	0	76
<b>Budgetary Resources</b>	<b>21</b>	<b>21</b>	<b>11,242</b>	<b>21</b>	<b>21</b>	<b>11,484</b>	<b>21</b>	<b>21</b>	<b>11,653</b>	<b>0</b>	<b>0</b>	<b>169</b>

Obligations by Program Activity	2015 Estimate			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
OIG Audits, Inspections, Investigations, and Reviews	21	21	11,360	21	21	11,484	21	21	11,653	0	0	169
<b>Budgetary Resources</b>	<b>21</b>	<b>21</b>	<b>11,360</b>	<b>21</b>	<b>21</b>	<b>11,484</b>	<b>21</b>	<b>21</b>	<b>11,653</b>	<b>0</b>	<b>0</b>	<b>169</b>



**I. Detail of Permanent Positions by Category**

**Detail of Permanent Positions by Category**

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request		Total Direct Pos.	Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Offsets	Program Increases		
Miscellaneous Operations (001-059)	6	0	6	0	0	0	0	6	0
Security Specialists (080)	3	0	3	0	0	0	0	3	0
Personnel Management (0200-0260)	7	0	7	0	0	0	0	7	0
Clerical and Office Services (0300-0399)	160	3	160	3	0	0	0	160	3
Misc Admin & Prog (0301)	0	0	0	0	0	1	0	0	0
Accounting and Budget (500-599)	95	11	95	11	0	0	0	95	11
Paralegals / Other Law (900-998)	5	0	5	0	0	0	0	5	0
Attorneys (905)	30	0	30	0	0	0	5	35	0
Operations Research Analyst	2	0	2	0	0	0	0	2	0
Misc. Inspectors/Investigative Assistants (1802)	9	0	9	0	0	0	0	9	0
Criminal Investigative Series (1811)	139	0	139	0	0	0	0	139	0
Information Technology Mgmt. (2210-2299)	18	7	18	7	0	0	0	18	7
<b>Total</b>	<b>474</b>	<b>21</b>	<b>474</b>	<b>21</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>480</b>	<b>21</b>
Headquarters Washington D.C.	228	21	228	21	0	6	0	234	21
US Fields	246	0	246	0	0	0	0	246	0
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>474</b>	<b>21</b>	<b>474</b>	<b>21</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>480</b>	<b>21</b>



J. Financial Analysis of Program Changes

Financial Analysis of Program Changes

Office of the Inspector General

Department of Justice

(Dollars in Thousands)

Grades	OIG Audits, Inspections, Investigations, and Reviews						Total Program Changes	
	Program Increases		Program Decreases					
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-15	5	823	0	0	0	0	5	823
GS-13	1	134	0	0	0	0	1	134
	6	957	0	0	0	0	6	957
Lapse ( )	0	-215	0	0	0	0	0	-215
11.5 - Other personnel compensation	6	742	0	0	0	0	6	742
Total FTEs and Personnel Compensation	6	225	0	0	0	0	6	225
12.1 - Civilian personnel benefits		29		0		0		29
21.0 - Travel and transportation of persons		6		0		0		6
22.0 - Transportation of things		16		0		0		16
23.3 - Communications, utilities, and miscellaneous charges		6		0		0		6
24.0 - Printing and reproduction		37		0		0		37
25.1 - Other services from federal sources		6		0		0		6
25.3 - Other goods and services from federal sources		37		0		0		37
25.8 - Medical care		6		0		0		6
26.0 - Supplies and materials		1,032		0		0		1,032
31.0 - Equipment		2,142		0		0		2,142
Total Program Change Requests	6		0		0		6	



# K. Summary of Requirements by Object Class

## Summary of Requirements by Object Class

Office of the Inspector General  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	423	45,183	434	47,256	440	49,044	6	1,788
11.3 - Other than full-time permanent	0	1,102	0	1,113	0	1,128	0	15
11.5 - Other personnel compensation	0	3,624	0	3,660	0	3,770	0	110
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>423</b>	<b>49,909</b>	<b>434</b>	<b>52,029</b>	<b>440</b>	<b>53,942</b>	<b>6</b>	<b>1,913</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		17,622		19,046		19,065	0	19
13.0 - Benefits for former personnel		20		20		20	0	0
21.0 - Travel and transportation of persons		2,000		2,100		2,130	0	30
22.0 - Transportation of things		145		145		151	0	6
23.1 - Rental payments to GSA		9,258		10,085		10,900	0	815
23.2 - Rental payments to others		461		488		468	0	0
23.3 - Communications, utilities, and miscellaneous charges		1,334		1,420		1,436	0	16
24.0 - Printing and reproduction		8		8		8	0	0
25.1 - Advisory and assistance services		2,279		2,279		2,279	0	0
25.2 - Other services from non-federal sources		2,050		2,050		2,087	0	37
25.3 - Other goods and services from federal sources		2,164		2,752		2,066	0	-686
25.4 - Operation and maintenance of facilities		20		182		182	0	0
25.6 - Medical care		156		156		162	0	6
25.7 - Operation and maintenance of equipment		395		392		392	0	0
26.0 - Supplies and materials		244		244		250	0	6
31.0 - Equipment		413		313		1,065	0	752
32.0 - Land and structures		0		0		1,191	0	1,191
<b>Total Obligations</b>		<b>88,458</b>		<b>93,709</b>		<b>97,814</b>	<b>0</b>	<b>4,105</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0	0	0
Transfers/Reprogramming		0		0		0	0	0
Recoveries/Refunds		0		0		0	0	0
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		0		0		0	0	0
Unobligated End-of-Year, Expiring		102		0		0	0	0
<b>Total Direct Requirements</b>		<b>88,560</b>		<b>93,709</b>		<b>97,814</b>		<b>4,105</b>
<b>Reimbursable FTE</b>	21		21		21		0	0
Full-Time Permanent							0	0



**L. Status of Congressionally Requested Studies, Reports, and Evaluations**

**Office of the Inspector General**

**Salaries and Expenses**  
(Dollars in Thousands)

**Status of Congressionally Requested Studies, Reports, and Evaluations**

1. The Consolidated Appropriation Act FY 2014, S. Report, Title II, page 89 OIG shall conduct audits and oversight of funds provided under the Comprehensive School Safety Initiative. The OIG shall also review concerns raised by the public about specific investments using funds made available in this program, and relay findings of their reviews to the Director of the NIJ and the Committees on Appropriations. NIJ and COPS have advised OIG that these initiatives will be funded in 2016.
2. The Consolidated Appropriation Act FY 2015, S. Report, Title II, page 73, directs the OIG to report to the Committees on Appropriations not later than 180 days after the date of enactment of this Act on the impact of Section 218 of this Act, which is designed to improve OIG access to Department documents and information. The OIG issued its report in June 2015.
3. The Consolidated Appropriation Act FY 2015, H. Report, Title II, page 42, directs the OIG to review the Department's enforcement of the Foreign Agents Registration Act (FARA). This requirement is being assessed and does not have a due date.
4. The Consolidated Appropriation Act FY 2016, S. Report, Title II, page 113, directs the OIG to report to the Committees on Appropriations not later than 180 days after the date of enactment of this Act. The Committee retains bill language providing the Inspector General access to documents and other materials at the Department of Justice, which may be necessary in the normal conduct of the Inspector General's duties. The Committee asks the Inspector General to report on the effectiveness of this provision. Target response to Committee is July 2016.
5. The Consolidated Appropriation Act FY 2016, H. Report, Title II, page 30, directs the OIG to report to the Committees on Appropriations not later than 90 days after the date of enactment of this Act—until the Attorney General demonstrates to the Committee that the Department and agencies have implemented or are in the process of implementing the OIG recommendations accompanying those reports. Target response to Committee is April 2016.



#### **M. Additional Required Information for OIG Budget Submissions**

The Inspector General Reform Act of 2008 (P.L. 110-409) requires that the Department of Justice OIG submit the following information related to its requested budget for Fiscal Year 2017:

- \*the aggregate budget request for the operations of the OIG is \$97,814,000;

- \*the requested amount includes \$1,048,000 to support the operations of the Council of the Inspectors General on Integrity and Efficiency (CIGIE);

- \*the portion of this amount needed for OIG training is \$680,000;

The Inspector General of the Department of Justice certifies that the amount requested for training satisfies all OIG training needs for FY 2017.



## APPENDIX

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### Statistical Highlights

April 1, 2015 – September 30, 2015

The following table summarizes Office of the Inspector General (OIG) activities discussed in our most recent *Semiannual Report to Congress*. As these statistics and the following highlights illustrate, the OIG continues to conduct wide-ranging oversight of Department of Justice (Department) programs and operations.

Source of Allegations	
Hotline (telephone, mail, and e-mail)	2,230
Other Sources	3,807
Total allegations received	6,037
Investigative Caseload	
Investigations opened this period	169
Investigations closed this period	205
Investigations in progress as of 9/30/15	447
Prosecutive Actions	
Criminal indictments/informations	71
Arrests	60
Convictions/Pleas	33
Administrative Actions	
Terminations	32
Resignations	53
Disciplinary action	38
Monetary Results	
Fines/Restitutions/Recoveries/ Assessments/Forfeitures	\$456,118
Civil Fines/Restitutions/ Recoveries/Penalties/Damages/Forfeitures	\$2,559,431



U.S Department of Justice  
FY 2017 Performance Budget  
Congressional Submission

United States Parole Commission



February 2016



## Table of Contents

	Page
<b>I. Overview</b>	3
<b>II. Summary of Program Changes</b>	8
<b>III. Appropriations Language and Analysis of Appropriations Language</b>	8
<b>IV. Program Activity Justification</b>	9
A. United States Parole Commission	
1. Program Description	9
2. Performance Tables	12
3. Performance, Resources, and Strategies	14
<b>V. Program Increases by Item</b>	17
<b>VI. Program Offsets by Item (Not Applicable)</b>	
<b>VII. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Changes by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	



## I. Overview for U.S. Parole Commission

The mission of the U.S. Parole Commission is to promote public safety and strive for justice and fairness in the exercise of its authority to release, revoke and supervise offenders under its jurisdiction.

For FY 2017, the President's Budget includes a total of \$14,000,000, 85 positions (7 attorneys) and 75 FTEs for the U.S. Parole Commission (USPC).

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

### **Organizational Structure**

- **The Chairman and Commissioners** render decisions in National Appeals Board cases; create and maintain a national parole policy; grant or deny parole to all eligible federal and District of Columbia prisoners; establish conditions of release; modify parole conditions and/or revoke the parole or mandatory/supervised releases of offenders who have violated the conditions of supervision; and administer the USPC crime victim notification program.
- **The Office of Budget and Management** provides management and advisory services to the Chairman, Commissioners, management officials, and staff in the areas of human resources management, workforce development and training; budget and financial management; contracts and procurement; facilities and property management; telecommunications; security; and all matters pertaining to organization, management, and administration.
- **The Office of Case Operations** conducts parole hearings with federal and D.C. prisoners and parole revocation hearings with parole violators; plans and schedules parole hearing dockets.
- **The Office of Case Services** monitors the progress of prisoners and parolees through pre-release and post-release; prepares and issues warrants and warrant supplements; drafts letters of reprimand; requests and analyzes preliminary interviews; and issues parole certificates.
- **The Office of Information Systems** is responsible for delivering and supporting information technology systems and services; maintaining and reporting statistical workload data; and administering the records management program.
- **The Office of the General Counsel** advises the Commissioners and staff on interpretation of the agency's enabling statutes; drafts implementing rules and regulations; and assists U.S. Attorney's Offices in defending the Commission against lawsuits brought by prisoners and parolees. The office also oversees responses to requests submitted under the Freedom of Information Act and Privacy Act.



## **Jurisdiction**

The U.S. Parole Commission has jurisdiction over the following types of cases:

All Federal Offenders who committed an offense before November 1, 1987;

All District of Columbia Code Offenders;

Uniform Code of Military Justice Offenders who are confined in a Bureau of Prisons' institution;

Transfer Treaty cases (U.S. citizens convicted in foreign countries, who have elected to serve their sentence in this country); and,

State Probationers and Parolees in the Federal Witness Protection Program.

In all of these cases, the Parole Commission has the responsibility for:

- making determinations regarding the initial conditions of supervision;
- managing the offender's risk in the community;
- modification of the conditions of supervision for changed circumstances;
- early discharge from supervision, issuance of a warrant or summons for violation of the conditions of supervision; and
- revocation of release for such offenders released on parole or mandatory release supervision.

**Federal Offenders** (offenses committed before November 1, 1987): The Parole Commission has the responsibility for granting or denying parole to federal offenders who committed their offenses before November 1, 1987, and who are not otherwise ineligible for parole. Supervision in the community is provided by U.S. Probation Officers.

**District of Columbia Code Offenders:** The Parole Commission has the responsibility for granting or denying parole to D.C. Code offenders who committed their offenses before August 5, 2000, and who are not otherwise ineligible for parole. Supervision in the community is provided by Supervision Officers of the Court Services and Offender Supervision Agency (CSOSA) of the District of Columbia and U.S. Probation Officers.

**Uniform Code of Military Justice Offenders:** The Parole Commission has the responsibility for granting or denying parole to parole-eligible Uniform Code of Military Justice offenders who are serving a sentence in a Bureau of Prisons institution. Supervision in the community for military parolees is provided by U.S. Probation Officers.

**Transfer-Treaty Cases:** The Parole Commission has the responsibility for conducting hearings and setting release dates for U.S. citizens who are serving prison terms imposed by foreign countries and who, pursuant to treaty, have elected to be transferred to the United States for service of that sentence. The Parole Commission applies the federal sentencing guidelines promulgated by the U.S. Sentencing Commission in determining the time to be served in prison before release for offenders who committed their offenses after October 31, 1987. For those offenders who committed their offenses before November 1, 1987, the U.S. Parole Commission applies the parole guidelines that are used for parole-eligible federal and military offenders.



**State Probationers and Parolees in Federal Witness Protection Program:** In addition to its general responsibilities, the Parole Commission is also responsible for the revocation of release for certain state probationers and parolees who have been placed in the federal witness protection program. Supervision in the community is provided by United States Probation Officers.

- Build a collaborative community approach to assisting victims and witnesses. Enhance decision-making through cooperation with external partners in criminal justice to ensure that the victim's input is considered prior to a decision. Develop policies and procedures to incorporate video conferencing for victim and witness input.

The Parole Commission (1) provides services and programs to facilitate inmates' successful reintegration into society, consistent with community expectations and standards; (2) supervises, revokes, and releases federal and District of Columbia offenders; (3) establishes and applies sanctions that are consistent with public safety and the appropriate punishment for crimes involving sex offenders, gangs, crimes of violence with firearms, and domestic violence; (4) establishes and implements guidelines to reduce recidivism; and (5) works collaboratively with the Court Services and Offender Supervision Agency (CSOSA), Federal Prison System, U.S. Marshals Service, U.S. Attorneys (USA), U.S. Probation Office (USPO), Public Defender Services (PDS), D.C. Metropolitan Police Department, D.C. Superior Court, and others to facilitate strategies that support anti-recidivism programs.

The following is a brief summary of the role USPC plays in supporting the Department of Justice's Strategic Goal 3.

**Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels**

**Strategic Objective 3.4 – Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in re-entering society.**

- Develop and implement enhanced strategies to evaluate reentry and supervision that will ensure community safety, reduce serious violent crime, and reduce recidivism.
- Establish short term intervention sanctions for administrative violators.
- Establish and implement guidelines to reduce recidivism.
- Enhance current sanctions and develop new alternatives to incarceration to reduce recidivism for low-risk, non-violent offenders, such as the Reprimand Sanction Hearings, Short-term Intervention for Success, and Mental Health Sanction Hearings.
- Establish conditions of release. Develop risk assessment instruments and guidelines to identify high risk offenders to require intense supervision sanctions to reduce the chances of recidivism. The Parole Commission targets those offenders involved in gang activity, sex offenses, gun-related offenses, and domestic violence.
- Issue warrants in a timely fashion to remove violent offenders from the community.
- D.C. Jail and Corrections: Develop new procedures for conducting probable cause and revocation hearings for Technical Parole Violators.



## 1. Full Program Costs

The FY 2017 budget request for USPC is \$14,000,000, 85 full time permanent positions (including 7 attorneys) and 75 FTE. USPC's budget is integrated with its own priorities as well as the Department's Strategic Goals and Objectives, and therefore each performance objective is linked with the costs of critical strategic actions.

	<u>Positions</u>	<u>FTE</u>	<u>Amount (\$000s)</u>
FY 2015 Appropriation	85	59*	13,308
FY 2016 President's Budget	85	75	13,308
FY 2017 Adjustments-to-base	0	0	354
FY 2017 Program Changes	0	0	338
FY 2017 Request	85	75	14,000

\*Note: This reflects actual FTE

The total costs include the following:

- The direct costs of all outputs
- Indirect costs
- Common administrative systems

The performance and resource tables define the total costs of achieving the strategies the USPC will implement in FY 2017. The various resource and performance charts incorporate the costs of lower level strategies which also contribute to achievement of objectives, but which may not be highlighted in detail in order to provide a concise narrative. Also included are the indirect costs of continuing activities, which are central to the USPC's operations.

## 2. Environmental Accountability

The Parole Commission continues to be proactive in its environmental accountability and towards that goal is consistently taking measures such as purchasing from recycled paper and products, as well as recycling all used toner cartridges and participating with the building's green program. The Parole Commission is also actively pursuing technologies and systems to reduce the use of paper in our processes.

## 3. Challenges

The challenges that impede progress towards achievement of agency goals are complex and ever changing.

**External Challenges:** There are many external challenges, outside of its control, that the USPC has to address to be successful in meeting its goals. A major task before the Parole Commission is to take immediate action on violent offenders, while reducing recidivism rates for low-risk, non-violent offenders. While the Parole Commission's workload depends heavily on the activities of its criminal justice partners, it has developed programs to reduce recidivism, reduce prison overcrowding, reduce violent crime, and promote the public's safety.



**Internal Challenges:** The USPC faces two significant internal challenges in the years ahead, one dealing with its aging workforce and the other with keeping pace with technology. Both challenges are intertwined and will require creative and resourceful solutions.

The caseload challenges are increasing, especially in the areas of mental health and sex offenses. There continues to be greater emphasis by the courts on the growing population with mental health disorders and the USPC needs to adjust internally by defining the special skill sets needed to address this growing workload and to develop its staff so we can address this particular workload. The staff must have the expertise to evaluate these disorders and set conditions of supervision that adequately address them. This is especially challenging because of USPC's small size. Innovation, creative, and more flexible recruitment options will have to be employed to meet this challenge.

A somewhat related and pressing second challenge is the Commission's need to expand its paperless process and take full advantage of technological innovation. In order to preserve institutional knowledge as key personnel retire, the Commission is implementing its Offender Management System (OMS). Moving to a paperless process will require sensitivity to a number of issues, including: access to case files; the need to meet statutory deadlines; the need to capture more reliable data; security concerns; working with multiple stakeholders, such as BOP, CSOSA, USPO, USA, and PDS; continuity of operation; and finally, having remote access at hearings.



## II. Summary of Program Changes

The requested changes for the USPC appropriation are summarized in the table below:

<u>Item Name</u>	<u>Description</u>	<u>Pos.</u>	<u>FTE</u>	<u>Dollars</u> <u>(\$000)</u>	<u>Page</u>
JCON IT Migration	Updating mission critical technology	0	0	338	17

## III. Appropriations Language and Analysis of Appropriations Language

### Appropriations Language

United States Parole Commission  
Salaries and Expenses

For necessary expenses of the United States Parole Commission as authorized, \$14,000,000: *Provided*, That, notwithstanding any other provision of law, upon the expiration of a term of office of a Commissioner, the Commissioner may continue to act until a successor has been appointed. (*Department of Justice Appropriations Act, 2016.*)

### Analysis of Appropriations Language

No substantive changes proposed.



## IV. Program Activity Justification

### A. United States Parole Commission

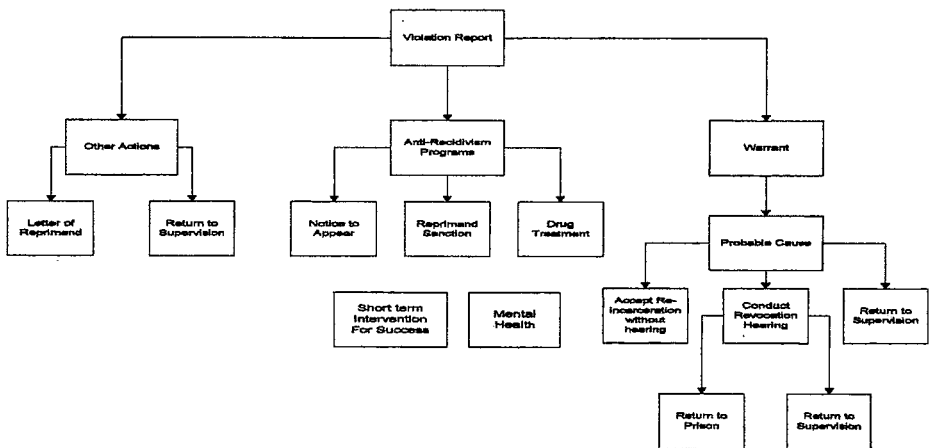
<i>United States Parole Commission</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	85	59*	\$13,308
2016 Enacted	85	75	13,308
Adjustments to Base and Technical Adjustments		0	354
2017 Current Services	85	75	13,662
2017 Program Increase	0	0	338
2017 Request	85	75	14,000
<b>Total Change 2016-2017</b>		0	692

\*Note: This reflects actual FTE

#### 1. Program Description

The USPC continues to collaborate with CSOSA to develop new performance measures that will identify the effectiveness of the Parole Commission's strategy to reduce recidivism.

In its effort to reduce recidivism, the Parole Commission has developed graduated sanctions to address non-compliant behavior thereby reducing the number of low-risk, non-violent offenders returning to prison. The flow chart below displays the process the Parole Commission follows after it receives a violation report and determines the best approach for a particular offender:



One major goal of the Parole Commission is to issue warrants for those that willfully violate the conditions of their release and for those with the most egregious behavior, typically tied to violence, child abuse, sex offenses, etc. This approach will keep our communities safe while



also returning the more productive, low-risk offenders back to the community in a timely and cost efficient manner. The long-term goals and outcomes USPC plans to track include:

- the percentage of low-risk, non-violent cases that are provided drug treatment, quick hits, and warnings instead of incarceration,
- the percentage of offenders with low-level violations offered reduced sentences without a hearing, and
- the percentage of warrants approved and issued for offenders violating their conditions of release while under USPC supervision in the community.

For low-risk non-violent offenders, USPCs implementation of an “Alternatives to Re-Incarceration” agenda emphasizes the development of strategies, to decrease prison overcrowding by reducing the number of low-level, non-violent offenders revoked to re-incarceration. USPC’s efforts parallel the Attorney General’s Smart on Crime Initiative by incorporating a fundamental principle founded in “not locking our way out of addressing low-level, non-violent offenders.” Currently, we have six strategic processes occurring throughout the Commission to aide in our recidivism reduction efforts.

**Reprimand Sanction Hearings:** Implemented in 2006, Reprimand Sanction Hearings are specialized hearings designed to reduce parole revocation hearings, improve offender compliance with release conditions, and reduce offender risk levels for offenders who have shown a pattern of noncompliance and have failed to respond positively to graduated sanctions. The hearings are conducted in person by the Chairman of the USPC, select members of the Commission, CSOSA, and the offender. Suggestions for improving compliance are given to the offender to improve their chance of remaining on supervised release. The intent of the hearings are to limit the number of offenders the USPC revokes supervision. Hearings are scheduled once a week, the first week of the month, for on average of 5 offenders per meeting. Since 2006, USPC has held 786 hearings. We continue to see significant reductions in positive drug test results and technical violation patterns among the offenders who have participated in this intervention.

**Mental Health Docket:** USPC created the Mental Health Sanctions Hearing Docket in early 2012 to identify the needs of the offenders with Mental Health diagnosis, provide greater collaboration with stakeholders in the acquisition of effective services, and increase the treatment engagement of program participants. This subset of offenders is one of the most challenging populations within the realm of Community Corrections because of their irrational, anti-social thoughts and behaviors, often are a result of failed or absent medication management.

Since 2012, the USPC has held 363 hearings, with approximately 66 warrants issued for continued non-compliance.

**Notice to Appear (NTA):** In an effort to reduce hardship on offenders and their families by allowing the offender to remain in the community until revocation proceedings commence, USPC implemented Notice to Appear Hearings. These efforts resulted in a reduction in overall time in custody for the revocation process. Since 2010, the USPC has approved 165 hearings, with 113 violators continuing on supervision, 52 violators revoked.

Throughout this process, there has been a decrease in warrants for non-violent offenders, decreases in the number of non-violent offenders being re-incarcerated for minor violations, and decreases in the number of days violators are housed in the Department of Corrections (DOC) custody. Ultimately, there’s a reduction in prison overcrowding which inevitably equates to



significant costs savings. The average wait time is 65 days for an offender to have a hearing and allowing these offenders to remain in the community while those hearings are pending results in a substantial savings to The Department of Corrections. It costs approximately \$129 a day to house an inmate at the DC Jail. At that rate, USPC saved the DOC approximately \$436,020 for the average time period of 65 days of incarcerating 52 revoked offenders during the revocation process.

**Residential Substance Abuse Treatment Program (RSAT) and Secure Residential Treatment Program (SRTTP):** RSAT and SRTTP were implemented in 2009 to deliver substance abuse treatment in a correctional facility setting as an alternative for offenders who would otherwise face revocation for low-level violations related to drug addiction and community reintegration failures. Operating out of the DC Department of Corrections, the RSAT program has a capacity of 75 beds for males, 25 beds for women, and a program length of up to 120 days, with 30 days of community-based inpatient or outpatient treatment. The SRTTP supports a capacity of 32 beds for males and a program length of 180 days, with 90 days of transitional living, followed by 54 sessions of outpatient treatment.

Since 2009, approximately 960 offenders have served in the RSAT program with approximately 816 successfully completing the program.

Since 2009, the SRTTP program served approximately 479 offenders with about 292 offenders successfully completing the program.

**Short-Term Intervention of Success (SIS):** In 2011 the SIS program was implemented to reduce recidivism by applying immediate short-term incarceration sanctions to administrative violators of supervision that demonstrate a commitment to modify their non-compliant behavior. To date, 1,002 offenders were approved to enter the SIS program and 51 offenders were denied entry. During this time 237 warrants were issued for offenders and the USPC subsequently revoked SIS program entry.



## 2. Performance and Resource Tables

RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2016		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Decision Unit: United States Parole Commission											
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)											
		59	13,308	75	13,308	75	13,308	0	692	75	14,000
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity											
		59	13,308	75	13,308	75	13,308	0	692	75	14,000
Performance Measure	3.4		1,760		1,871		1,780		-		1,780
Performance Measure	3.4		160		219		160		-		160
Performance Measure	3.4		1,760		1,738		1,780		-		1,780
Performance Measure	3.4		1,350		1,321		1,350		-		1,350
Performance Measure	3.4		300		362		300		-		300

\*\* The USPC has added Alternatives to the Re-Incarceration performance measure. This measure includes Reprimand Sanction hearings. Mental Health Docket, Residential Substance Abuse Program (RSAT) and Secure Residential Treatment Program (SRPT)



PERFORMANCE MEASURE TABLE																
Decision Unit:		United States Parole Commission														
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
	Performance Measure		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target	Target	
3.4	Performance Measure	Warrants	2,352	2,364	2,000	2,296	1,871	1,780	1,780	1,780	1,780	1,780	1,780	1,780	1,780	
3.4	Performance Measure	Appeals	165	223	160	213	219	160	219	160	160	160	160	160	160	
3.4	Performance Measure	Parole Hearings	2,194	2,210	2,000	1,941	1,738	1,780	1,780	1,780	1,780	1,780	1,780	1,780	1,780	
3.4	Performance Measure	Revocation Hearings	1,285	1,758	1,500	1,728	1,321	1,330	1,330	1,330	1,330	1,330	1,330	1,330	1,330	
3.4	Performance Measure	**Alternatives to Re-Incarceration	-	-	-	-	300	362	300	300	300	300	300	300	300	
* Includes terminations, transfer treaty cases, parole hearings, reprimand sanction hearings, pre-hearing assessments																
** The USPC has added Alternatives to the Re-Incarceration performance measure. This measure includes Reprimand Sanction hearings, Mental Health Docket, Residential Substance Abuse Program (RSAT) and Secure Residential Treatment Program (SRPT)																

\* Includes terminations, transfer treaty cases, parole hearings, reprimand sanction hearings, pre-hearing assessments

\*\* The USPC has added Alternatives to the Re-Incarceration performance measure. This measure includes Reprimand

Sanction hearings, Mental Health Docket, Residential Substance Abuse Program (RSAT) and Secure Residential Treatment Program (SRPT)



## 2. Performance, Resources, and Strategies

The USPC contributes to the Department's Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels. Within this Goal, USPC's resources specifically address one of the Department's Strategic Objectives: 3.4 – provide for the safe, secure, humane, and cost-effective confinement of detainees awaiting trial and/or sentencing, and those in the custody of the federal prison system.

On August 12, 2013, the Attorney General in a speech before the American Bar Association's (ABA) House of Delegates, announced a modification of the Justice Department's charging policies so that certain low-level, nonviolent drug offenders who have no ties to large-scale organizations, gangs, or cartels will no longer be charged with offenses that impose draconian mandatory minimum sentences. He noted that: "...by reserving the most severe penalties for serious, high-level, or violent drug traffickers, we can better promote public safety, deterrence, and rehabilitation – while making our expenditures smarter and more productive."

The United States Parole Commission (USPC) is committed to providing alternatives to incarceration in an attempt to make low level, non-violent offenders, including drug offenders, more productive in our communities. Evidence from a number of state initiatives, such as those in Kentucky and Texas, has shown that investments in drug treatment for nonviolent offenders and other changes to parole policies cannot only reduce prison populations, saving taxpayers millions of dollars, but can also reduce recidivism rates. Spending our dollars wisely can result in a return on investment that we can all be proud of – declining rates of recidivism, safer communities, and more productive citizens.

The USPC has undertaken a number of initiatives that support the Administration's position on lowering the rates of recidivism, including a number of alternatives to incarceration. These alternatives include increasing the numbers of offenders referred to the Secured Residential Treatment Program and Residential Substance Abuse Treatment Program in the District of Columbia. Other alternatives include expanding the Reprimand Sanction Hearings Program to increase the number of offenders referred to the USPC for violating the administrative conditions of their release. Frequent and early intervention by the USPC has improved the offender compliance in the community and reduced the need for re-incarceration. Also, the expansion of the mental health dockets will increase the treatment engagement of mentally ill offenders to reduce their risk in the community, and reduce the cost of incarceration.

The USPC has expanded its Short-Term Intervention for Success (SIS) program, which is designed to provide for shorter periods of imprisonment for technical violators in exchange for potentially longer periods of incarceration. The success of the pilot program suggests a decrease in the re-arrest rates for those participating and has ultimately reduced overall prison costs. The USPC approves approximately 318 offenders per year to participate in the SIS program.

The Attorney General, in his August 12, 2013 remarks to the ABA, noted: "Even though this country comprises just five percent of the world's population, we incarcerate almost a quarter of the world's prisoners," adding that "...almost half of them are serving time for drug-related crimes, and many have substance use disorders." Finally, the Attorney General commented that "...roughly 40 percent of former federal prisoners – and more than 60 percent of former state prisoners – are rearrested or have their supervision revoked within three years after their release,



at great cost to the American taxpayers and often for technical or minor violations of the terms of their release.”

As noted above, the USPC has developed programs to reduce recidivism, reduce prison overcrowding, reduce violent crime, and promote the public’s safety. It complements the Department’s efforts to reduce rates of recidivism among Federal and District of Columbia (D.C.) offenders and supports Departmental priorities, including:

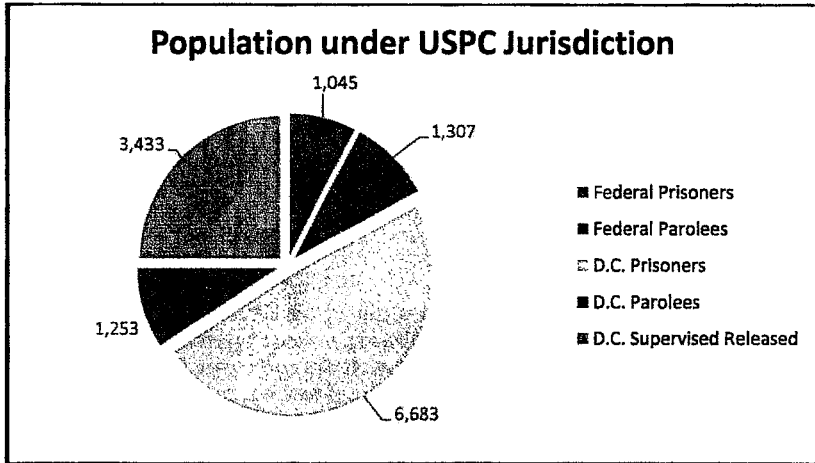
- Reducing prison overcrowding as recently emphasized by the Attorney General:
  - Reduce escalating and crippling costs for the federal and D.C. governments to house offenders while waiting for delayed hearings and stays of release, as well as untimely incarceration decisions
- Lowering recidivism rates:
  - Greater emphasis on reentry strategies, such as substance abuse, mental health, housing, and employment
  - Measuring the effectiveness of the conditions imposed on offenders in the community
  - Establish graduated sanctions that permit the Parole Commission to address non-compliant behavior without returning the offender to prison
- Promoting alternatives to incarceration:
  - Identifying and implementing directives and/or special conditions to assist offenders in maintaining success under supervision
  - Developing and implementing a program to send offenders to treatment programs
  - Establish graduated sanctions that permit the Parole Commission to address non-compliant behavior without returning the offender to prison
- Reducing violent crime, especially crime perpetuated with guns or by gangs:
  - Significantly reduce delays in the issuance of warrants needed to apprehend violent offenders
  - Sharing information and collaborating with other federal, state, and local law enforcement partners

The Parole Commission also recognizes that to conform to current National Archives and Records Administration (NARA) directives, Executive Orders, and the Presidential Memorandum -- Managing Government Records dated November 28, 2011, the Parole Commission will need to deploy a comprehensive electronic Case Management System (CMS). Further, existing active files will need to be prioritized for eventual scanning to convert them from paper. To this end, the Parole Commission has begun implementation of a new CMS, currently deployed at other divisions of the Department of Justice. This system will also provide efficiencies in data exchange with CSOSA, electronic Warrant issuance, and improve the management of the hearing process.



**a. Changes in Population and Workload**

In FY 2015, the Parole Commission's estimates the total prisoner and parolee population, federal and D.C., including D.C. supervised releases, to be approximately 13,722 a decrease of 3,396 from the previous year. The D.C. population under the Parole Commission's jurisdiction is 11,369, including 6,683 prisoners and 4,686 parolees and supervised releases. The remaining 2,353 individuals consist of federal offenders (including federal prisoners, parolees, transfer treaty, and military justice offenders) and state probationers and parolees in the Federal Witness Protection Program. There was a decrease of 513 individuals from this small section of the population.



Much of the D.C. caseload is driven by the management and evaluation of the progress of offenders in the community; the tracking of those at risk; the imposition of additional sanctions or conditions to ensure public safety; and finally, requests for warrants as a result of violations of the terms and conditions of parole. When a warrant is issued, a request for a preliminary interview follows, along with a hearing afterwards. The decrease in the population can be attributed to the overall decrease in criminal activity in DC. However, it is possible to not realize a decrease in workload due to the number of offenses still being generated by the remaining offenders.

Local revocation hearings are held at facilities in the locality where a parolee has been arrested, and they require much more work because the hearings are adversarial. An offender may contest the charges and is entitled to representation by an attorney, along with the ability to call witnesses. Additionally, these hearings are more costly to the Parole Commission, because they often involve travel to a remote location, where the examiner is only able to handle a particular case. In an institutional hearing, the parolee has admitted to the charges or been convicted of new criminal activity, and the issues to be heard involve the degree of responsibility and the length of additional incarceration. Institutional hearings are less costly, because the examiner can handle several cases during one docket. The Parole Commission has determined that local revocations are about 2-3 times as labor intensive as institutional hearings.



## V. Program Increases by Item

**Item Name:** JCON IT Migration  
**Strategic Goal:** 3.0  
**Strategic Objective:** 3.4  
**Budget Decision Unit(s):** USPC

**Organizational Program:** USPC - Mission Critical Infrastructure

**Program Increase:** Positions   0   Agt/Atty   0   FTE   0   Dollars \$338,000

### Description of Item

The FY 2017 budget includes a program increase for the USPC to update mission critical information technology, along with improving the ability for the USPC to work more efficiently and securely with its partners. This program increase will allow the USPC to move onto a more secure network (JCON) which has over 4,000 DOJ customers. This will ensure enhanced cybersecurity by enabling Personal Identity Verification (PIV) card authentication, a key cybersecurity requirement and OMB priority. The program increase will fund the migration to JCON and first year operational costs.

### Justification

The FY 2017 program increase is vital to the operations, continued development and modernization of the USPC's IT infrastructure. The migration to JCON ensures the USPC will consistently be compliant with all cybersecurity regulations, as well as operate on a secured network. The USPC considers this increase a modest investment move towards improving our capabilities, meet requirements; maintain legacy systems until new systems and capabilities are addressed and developed. The USPC remains committed to maintaining the highest level of accuracy and efficiency with our partners, the migration to JCON will ensure the USPC is operating on a secure network using current and updated applications to mitigate the possibility of data breaches.

### Impact on Performance

The USPC supports strategic objective 3.4 – Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in re-entering society. This core mission requires the USPC to use various systems to exchange data within the agency as well to partners outside the agency. The USPC would benefit from the support of JCON which ensure all USPC users will be on a secure network, compliant with cybersecurity requirements, using current and updated applications. This will increase the continuity and efficiency of all USPC operations.

### Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non-Personnel			\$338	\$330	\$330



# Summary of Requirements

U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted <sup>1/</sup>	85	59	13,308
Total 2015 Enacted	85	59	13,308
2016 Enacted	85	68	13,308
<b>Base Adjustments</b>			
Pay and Benefits	0	7	344
Domestic Rent and Facilities	0	0	10
Total Base Adjustments	0	7	354
Total Technical and Base Adjustments	0	7	354
2017 Current Services	85	75	13,662
<b>Program Changes</b>			
Increases:			
JCON IT Migration	0	0	338
Subtotal, Increases	0	0	338
Total Program Changes	0	0	338
2017 Total Request	85	75	14,000
2016 - 2017 Total Change	0	7	692

<sup>1/</sup> FY 2015 FTE is actual



**Summary of Requirements**  
U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
United States Parole Commission	85	59	13,308	85	68	13,308	0	7	354	85	75	13,662
Total Direct	85	59	13,308	85	68	13,308	0	7	354	85	75	13,662
Balance Recession			0			0			0			0
Total Direct with Recession			13,308			13,308			354			13,662
Reimbursable FTE		0			0			0			0	
Total Direct and Reimb. FTE		59			68			7			75	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
Grand Total, FTE		59			68			7			75	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
United States Parole Commission	0	0	338	0	0	0	85	75	14,000
Total Direct	0	0	338	0	0	0	85	75	14,000
Balance Recession			0			0			0
Total Direct with Recession			338			0			14,000
Reimbursable FTE		0			0			0	
Total Direct and Reimb. FTE		0			0			75	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		0			0			75	







Resources by Department of Justice Strategic Goal and Objective

U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Appropriation Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount
Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels																		
3.4 Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society.	59	13,308		68	13,308		75	13,662	0	336	0		0	0		75	14,000	
Subtotal, Goal 3	59	13,308		68	13,308		75	13,662	0	336	0		0	0		75	14,000	
TOTAL	59	13,308		68	13,308		75	13,662	0	336	0		0	0		75	14,000	



## Justifications for Technical and Base Adjustments

U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 <u>2017 Pay Raise - 1.6%</u> This request provides for a proposed 1.6 percent pay raise to be effective in January 2017. The amount requested, \$359,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$269,000 for pay and \$90,000 for benefits.)	0	0	359
2 <u>Annualization of 2016 Pay Raise</u> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.0 percent included in the 2016 President's Budget. The amount requested, \$33,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$23,000 for pay and \$10,000 for benefits.)	0	0	33
3 <u>Changes in Compensable Days</u> The decreased cost for two less compensable day in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$7,300,000 and applicable benefits \$1,979,000 by 262 compensable days.	0	0	-72
4 <u>Health Insurance</u> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.5%. Applied against the 2016 estimate of \$490,000, the additional amount required is \$17,000.	0	0	17
5 <u>Position/FTE Adjustment</u> Adjustment provides 7 needed FTEs to bring the USPC closer to its full authorized position level.	0	7	0
6 <u>Retirement</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$7,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	7
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>7</b>	<b>344</b>



**Justifications for Technical and Base Adjustments**

U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$5,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	5
<b>2 Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$5,000 is required to meet these commitments.	0	0	5
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>10</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>7</b>	<b>354</b>



**Crosswalk of 2015 Availability**  
**U.S. Parole Commission**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Program Activity	FY 2015 Appropriation			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount
United States Parole Commission	85	59	13,308	0	0	-4	0	0	85	59	13,304
<b>Total Direct</b>	<b>85</b>	<b>59</b>	<b>13,308</b>	<b>0</b>	<b>0</b>	<b>-4</b>	<b>0</b>	<b>0</b>	<b>85</b>	<b>59</b>	<b>13,304</b>
Balance Rescission			0				0	0			0
Total Direct with Rescission			13,308			-4		0			13,304
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		59			0					59	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		59			0					59	

**Reprogramming/Transfers:**

**Carryover:**

**Recoveries/Refunds:**



# **Crosswalk of 2016 Availability**

U.S. Parole Commission  
 Salaried and Expenses  
 (Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Pos.		Direct Pos.	Est. FTE	Amount
United States Parole Commission	85	68	13,308	0	0	0	0	0	0	85	68	13,308
<b>Total Direct</b>	<b>85</b>	<b>68</b>	<b>13,308</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>85</b>	<b>68</b>	<b>85</b>	<b>68</b>	<b>13,308</b>
Balance Rescission			0									
Total Direct with Rescission			13,308									0
Reimbursable FTE		0			0						0	13,308
Total Direct and Reimb. FTE		68			0						68	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		68			0						68	

## **Reprogramming/Transfers:**

## **Carryover:**

## **Recoveries/Refunds:**



**Summary of Reimbursable Resources**  
**U.S. Parole Commission**  
 Salaries and Expenses  
 (Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Office for Victims of Crime	0	0	0	60	0	0	40	0	20	0	0	-20
<b>Budgetary Resources</b>	0	0	0	60	0	0	40	0	20	0	0	-20

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
United States Parole Commission	0	0	0	60	0	0	40	0	20	0	0	-20
<b>Budgetary Resources</b>	0	0	0	60	0	0	40	0	20	0	0	-20



I. Detail of Permanent Positions by Category

**Detail of Permanent Positions by Category**

U.S. Parole Commission  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request			Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	Total Direct Pos.	
Social Science, Psychology, Welfare (0100-0189)	30	0	30	0	0	0	0	30	0
Clerical and Office Services (0300-0399)	34	0	34	0	0	0	0	34	0
Accounting and Budget (500-599)	2	0	2	0	0	0	0	2	0
Attorneys (905)	7	0	7	0	0	0	0	7	0
Information Technology Mgmt (2210-2299)	7	0	7	0	0	0	0	7	0
Social Worker Series (185)	5	0	5	0	0	0	0	5	0
<b>Total</b>	<b>85</b>	<b>0</b>	<b>85</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>85</b>	<b>0</b>
Headquarters Washington D.C.	85	0	85	0	0	0	0	85	0
US Fields	0	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>85</b>	<b>0</b>	<b>85</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>85</b>	<b>0</b>



**Financial Analysis of Program Changes**  
 U.S. Parole Commission  
 Salaries and Expenses  
 (Values in thousands)

Grades	United States Parole Commission		Program Decreases		Total Program Changes	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
No grades	0	0	0	0	0	0
Total Positions and Annual Amount	0	0	0	0	0	0
Lapses (1)	0	0	0	0	0	0
11.5 - Other personnel compensation	0	0	0	0	0	0
Total FTEs and Personnel Compensation	0	0	0	0	0	0
25.3 - Other goods and services from federal sources	0	338	0	0	0	338
Total Program Change Requests	0	338	0	0	0	338



**Summary of Requirements by Object Class**  
**U.S. Parole Commission**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	59	5,716	68	6,700	75	6,740	7	40
11.3 - Other than full-time permanent	0	388	0	460	0	460	0	0
11.5 - Other personnel compensation	0	0	0	250	0	250	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>59</b>	<b>6,104</b>	<b>68</b>	<b>7,410</b>	<b>75</b>	<b>7,450</b>	<b>7</b>	<b>40</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		2,140		2,628		2,761		133
13.0 - Benefits for former personnel		6		50		50		0
21.0 - Travel and transportation of persons		120		130		130		0
22.0 - Transportation of things		23		25		25		0
23.1 - Rental payments to GSA		1,946		1,955		1,955		0
23.2 - Rental payments to others		95		100		100		0
23.3 - Communications, utilities, and miscellaneous charges		110		110		110		0
24.0 - Printing and reproduction		15		15		30		15
25.1 - Advisory and assistance services		53		175		63		-112
25.2 - Other services from non-federal sources		579		200		290		90
25.3 - Other goods and services from federal sources		309		310		655		345
25.4 - Operation and maintenance of facilities		18		20		1		-18
25.5 - Research and development of contracts		118		90		290		200
25.7 - Operation and maintenance of equipment		300		0		0		0
26.0 - Supplies and materials		35		40		40		0
31.0 - Equipment		888		50		50		0
<b>Total Obligations</b>		<b>12,859</b>		<b>13,308</b>		<b>14,000</b>		<b>692</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0		0
Transfers/Reprogramming		0		0		0		0
Recoveries/Refunds		0		0		0		0
Balance Rescission		0		0		0		0
Unobligated End-of-Year, Available		0		0		0		0
Unobligated End-of-Year, Expiring		0		0		0		0
<b>Total Direct Requirements</b>		<b>12,859</b>		<b>13,308</b>		<b>14,000</b>		<b>692</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0		0	



**Summary of Requirements by Grade**  
U.S. Parole Commission  
Salaries and Expenses  
(Dollars In Thousands)

Grades and Salary Ranges	2015 Enacted		2016 Enacted Continuing Resolution		2017 Request		Increase/Decrease	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
Ungraded	85	0	0	0	0	0	0	0
Total, Appropriated Positions	85	0	0	0	0	0	0	0
Average SES Salary								
Average GS Salary								
Average GS Grade								
		#N/A		#N/A		#N/A		



**FY 2017  
Performance Budget  
Congressional Submission**



**NATIONAL SECURITY DIVISION**

**U.S. Department of Justice**



## Table of Contents

<b>I. Overview .....</b>	<b>1</b>
<b>II. Summary of Program Changes .....</b>	<b>7</b>
<b>III. Appropriations Language and Analysis of Appropriations Language .....</b>	<b>8</b>
<b>IV. Program Activity Justification .....</b>	<b>9</b>
National Security Division	
1. Program Description .....	9
2. Performance Tables .....	12
3. Performance, Resources, and Strategies .....	15
<b>V. Program Increases by Item .....</b>	<b>NA</b>
<b>VI. Program Offset by Item .....</b>	<b>NA</b>
<b>VII. Exhibits .....</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit – Not Applicable	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources – Not Applicable	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations – Not Applicable	
M. Senior Executive Service Reporting – Not Applicable	



## **I. Overview for National Security Division**

### **A. Introduction**

The National Security Division (NSD) is responsible for combating terrorism and other threats to the national security, the Department of Justice's (DOJ's) highest priority. To sustain mission needs, NSD requests for FY 2017 a total of 393 positions (including 254 attorneys), 364 FTE, and \$97,337,000.<sup>1</sup>

### **B. Background**

In recent years, NSD engaged in a comprehensive strategic assessment of the Division's current operations and future requirements. The outcome of the assessment resulted in NDS outlining three areas of new or renewed focus that will guide its operations in the coming years:

- Continuing to bring an all-tools, integrated approach to NSD's counterterrorism work, while adapting to address the changing terrorism threats that include cyber-based terrorism and homegrown violent extremism;
- Continuing to protect national assets from both cyber-based and non-cyber-based threats through a strong counterintelligence and export control program designed to combat traditional espionage, economic espionage and proliferation of weapons of mass destruction; and
- Enhancing NSD's intelligence-related programs and its intelligence oversight function.

All of the program increases reflected in NSD's FY 2017 request map to these strategic goals and priorities and will ensure that NSD remains best positioned to fulfill the Department's top priority mission in the face of increasing challenges and evolving and growing threats. NSD's assessment of the challenges it faces in fully realizing its goals in these areas are further outlined in section I.D.: Performance Challenges.

### Division Structure

The NSD consolidates within a single Division the Department's primary national security elements outside of the Federal Bureau of Investigation (FBI), which currently are the:

- Office of Intelligence (OI);
- Counterterrorism Section (CTS);
- Counterintelligence and Export Control Section (CES);
- Office of Law and Policy (L&P);

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<sup>1</sup> Within the totals outlined above, NSD has included a total of 14 positions, 14 FTE, and \$14,299,000 for Information Technology (IT).



- Foreign Investment Review Staff (FIRS); and
- Office of Justice for Victims of Overseas Terrorism (OVT).

This organizational structure strengthens the effectiveness of the Department's national security efforts by ensuring greater coordination and unity of purpose between prosecutors, law enforcement agencies, intelligence attorneys, and the Intelligence Community (IC).

### NSD Major Responsibilities

#### *Counterterrorism*

- Promoting and overseeing a coordinated national counterterrorism enforcement program, through close collaboration with Department leadership, the National Security Branch of the FBI, the IC, and the 94 United States Attorneys' Offices (USAOs);
- Developing national strategies for combating emerging and evolving terrorism threats, including the threat of cyber-based terrorism and homegrown violent extremism;
- Overseeing and supporting the National Security Coordinator/Anti-Terrorism Advisory Council (ATAC) program by: 1) collaborating with prosecutors nationwide on terrorism matters, cases, and threat information; 2) maintaining an essential communication network between the Department and USAOs for the rapid transmission of information on terrorism threats and investigative activity; and 3) managing and supporting ATAC activities and initiatives;
- Consulting, advising, and collaborating with prosecutors nationwide on international and domestic terrorism investigations, prosecutions, and appeals, including the use of classified evidence through the application of the Classified Information Procedures Act (CIPA);
- Sharing information with and providing advice to international prosecutors, agents, and investigating magistrates to assist in addressing international threat information and litigation initiatives;
- Managing DOJ's work on counter-terrorist financing programs, including supporting the process for designating Foreign Terrorist Organizations and Specially Designated Global Terrorists, as well as staffing United States (U.S.) Government efforts on the Financial Action Task Force; and
- Through OVT, prioritizing within the Department the investigation and prosecution of terrorist attacks that have resulted in the deaths and/or injuries of American citizens overseas, and ensuring support for, and the protection of rights of, victims and families.

#### *Protection of National Assets through Counterintelligence and Export Control*

- Supporting and supervising the investigation and prosecution of cases involving treason, sedition, espionage, economic espionage, and cyber threats to the national security through coordinated efforts and close collaboration with Department leadership, the FBI, the IC, and the 94 USAOs;



- Developing national strategies for combating the emerging and evolving threat of cyber-based espionage and state-sponsored cyber intrusions;
- Assisting in and overseeing the expansion of investigations and prosecutions into the unlawful export of military and strategic commodities and technology, including by assisting and providing guidance to USAOs in the establishment of Export Control Proliferation Task Forces;
- Coordinating and providing advice in connection with cases involving the unauthorized disclosure of classified information and supporting resulting prosecutions by providing advice and assistance with the application of CIPA;
- Enforcing the Foreign Agents Registration Act of 1938 (FARA) and related disclosure statutes;
- Through FIRS, performing the Department's staff-level work on the Committee on Foreign Investment in the U.S. (CFIUS), which reviews foreign acquisitions of domestic entities that might affect national security and makes recommendations to the President on whether such transactions are a threat, responding to Federal Communications Commission (FCC) requests for the Department's views relating to the national security implications of certain transactions relating to FCC licenses; and tracking and monitoring certain transactions that have been approved pursuant to these processes.

#### *Intelligence Operations, Litigation, Oversight and Reporting*

- Ensuring that IC agencies have the legal tools necessary to conduct intelligence operations while safeguarding privacy and civil liberties;
- Representing the U.S. before the Foreign Intelligence Surveillance Court (FISC) to obtain authorization under the Foreign Intelligence Surveillance Act (FISA) for government agencies to conduct intelligence collection activities;
- Coordinating and supervising intelligence-related litigation matters, including the evaluation and review of requests to use information collected under FISA in criminal and non-criminal proceedings and to disseminate FISA information;
- Serving as the Department's primary liaison to the Director of National Intelligence and the IC.
- Overseeing certain foreign intelligence, counterintelligence, and other national security activities of IC components to ensure compliance with the Constitution, statutes, and Executive Branch policies to protect individual privacy and civil liberties;
- Monitoring certain intelligence and counterintelligence activities of the FBI to ensure conformity with applicable laws and regulations, FISC orders, and Department procedures, including the foreign intelligence and national security investigation provisions of the Attorney General's Guidelines for Domestic FBI Operations; and
- Fulfilling statutory, Congressional, and judicial reporting requirements related to intelligence, counterintelligence, and other national security activities.



*Cross-Cutting National Security Policy, Litigation, and Legal Support*

- Handling appeals in cases involving national security-related prosecutions, and providing views on appellate issues that may impact national security in other civil, criminal, and military commissions cases;
- Providing legal and policy advice on the national security aspects of cybersecurity policy and cyber-related operational activities;
- Providing advice and support on national security issues that arise in an international context, including assisting in bilateral and multilateral engagements with foreign governments, working to build counterterrorism capacities of foreign governments, and enhancing international cooperation;
- Providing advice and support on legislative matters involving national security issues, including developing and commenting on legislation, supporting Departmental engagements with members of Congress and Congressional staff, and preparing testimony for senior Division/Department leadership;
- Providing legal assistance and advice on matters arising under national security laws and policies, and overseeing the development, coordination, and implementation of Department-wide policies with regard to intelligence, counterintelligence, counterterrorism, and other national security matters;
- Handling issues related to classification and declassification of records, records management, and freedom of information requests and related litigation; and
- Developing a training curriculum for prosecutors and investigators on cutting-edge tactics, substantive law, and relevant policies and procedures.

**NSD Recent Accomplishments (unclassified selections only)**

- Brought scores of charges against foreign terrorist fighters and homegrown violent extremists to disrupt these emerging and growing threats.
- Continued to lead the nation's counterterrorism enforcement program through collaboration with Department leadership, the FBI, the IC, and the USAOs.
- Through the National Security Cyber Specialist Network, the FBI's National Cyber Investigative Joint Task Force, and a number of USAOs across the country, successfully brought charges in a number of complex national security cyber cases.
- Continued to support the IC by seeking authority under FISA with the FISC.
- Designated 245 international terrorism events to allow for U.S. victim compensation and reimbursement under the International Terrorism Victim Expense Reimbursement Program (ITVERP).
- Combated the growing threat posed by the illegal foreign acquisition of controlled U.S. military and strategic technologies through the National Export Enforcement Initiative.
- Successfully investigated and prosecuted national security threat actors – specific examples detailed below.
- Managed an increased workload associated with the CFIUS.



- Helped lead the President's efforts to review hostage procedures and staffed a hostage review group.

### **C. Full Program Costs**

The NSD has a single decision unit. Its program activities include intelligence, counterterrorism, counterespionage, and cyber security, which are related to DOJ Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law, and its four Objectives. The costs by program activity include the activity's base funding plus an allocation of management, administration, and L&P overhead costs. The overhead cost is allocated based on the percentage of the total cost comprised by each of the program activities.

### **D. Performance Challenges**

Protecting the nation's security is the top priority for the Department, and NSD's work is critical to that mission. However, as the threats facing this nation continue to grow and evolve, the challenges NSD must overcome also continue to increase. These challenges include:

1. The changing terrorism threat, including the risks posed by homegrown violent extremists and the potential for cyber-based terrorism;
2. The recent recognition of increasing and changing threats to our national assets, including significant growth of cyber threats to the national security; and
3. An increasing workload in intelligence oversight, operations, and litigation; and
4. Difficulties inherent in supporting the continued development of a relatively new Division in an ever-changing environment.

The terrorism threat continues to become increasingly diverse and decentralized – as the world has made progress against core al Qaeda, the Islamic State of Iraq and the Levant (“ISIL”) has emerged and turned to a more diverse set of tactics, calling on operatives to engage in terrorism attacks wherever the opportunity arises. Thus, NSD and its partners are increasingly focused on this new trend and disrupting smaller, faster-developing plots, rather than larger, longer-term plots like 9/11.

As part of this changing threat environment, there continues to be a rise in homegrown violent extremism, which has resulted in terrorist attacks on U.S. soil inflicting civilian casualties, such as in the Boston Marathon bombings in April 2013. In addition, there continues to be an increasing number of U.S. persons traveling to Syria to join the ongoing conflict there. These individuals may return to the U.S. trained in the use of improvised explosive devices and other weapons, prepared to conduct attacks.

The threat of these types of attacks is heightened by Islamic extremists aligned with ISIL and other terrorist organizations, such as al-Shabaab, that continue to leverage social media and online engagement to further their recruitment efforts and call for attacks against the homeland. This environment gives rise to the potential for increasing number of HVEs, who – although they



do not necessarily have any direct ties to ISIL, al Qaeda or any other foreign terrorist organization – reside or operate in the U.S. and become inspired by ISIL, al Qaeda or similar groups through social media and English-language propaganda.

The distributed nature of these types of threats makes investigation of them incredibly complex – as terrorist groups have turned to inspiring individuals across the globe to commit independent and more easily executed acts of terror, identifying and disrupting the threat has become increasingly resource-intensive. Unlike the small, organized cells that NSD has traditionally seen, the new face of terrorism is everywhere, and the potential population of would-be attackers is not easily knowable.

Also among the most significant challenges that NSD continues to face is the rapid expansion and evolution of cyber threats to the national security. Representatives from the IC have assessed that the cyber threat may soon surpass that of traditional terrorism, and NSD must be prepared to continue to take lessons learned over the past decade and adapt them to this new threat. Cyber threats, which are highly technical in nature, require time-intensive and complex investigative and prosecutorial work, particularly given their novelty, the difficulties of attribution, challenges presented by electronic evidence, the speed and global span of cyber activity, and the balance between prosecutorial and intelligence-related interests in any given case. To meet this growing threat head on, NSD must continue to equip its personnel with cyber-related skills through additional training while recruiting and hiring individuals with cyber skills who can dedicate themselves full-time to these issues immediately. The window of opportunity for getting ahead of this threat is narrow; closing the gap between our present capabilities and our anticipated needs in the near future will require significant resources and commitment.

NSD expects to see continued considerable growth in the area of use and litigation relating to Section 702 information. There have been several high-profile litigation matters during the past year involving individuals indicted for terrorism-related charges. A sample of those cases includes the following:

*U.S. v. Fazliddin Kurbanov* – On January 7, 2016, Fazliddin Kurbanov was sentenced in the District of Idaho to 25 years in prison. Kurbanov was charged in a 5 count superseding indictment with conspiring and attempting to provide material support to terrorists, conspiring and attempting to provide material support to a designated foreign terrorist organization, and possession of an unregistered firearm (destructive device). After a five week jury trial in Idaho, Kurbanov was convicted of 3 of the 5 counts on August 12, 2015. He was convicted of conspiring and attempting to provide material support to a designated foreign terrorist organization, and possession of an unregistered firearm (destructive device). The evidence at trial demonstrated that Kurbanov sought to provide himself as personnel to the Islamic Movement of Uzbekistan, a designated foreign terrorist organization, for the purpose of conducting a bomb attack within the United States. Kurbanov had purchased various bomb-making components, conducted research on how to make explosives and asked the IMU for assistance in making a remote detonator for an attack. Kurbanov also conspired with the IMU to provide money and computer software. While meeting with an FBI Confidential Human Source



(CHS) in Utah, Kurbanov spent hours showing the CHS videos about bomb-making, and instructing the CHS on how to build and utilize explosives for an attack. Kurbanov is separately charged in a pending indictment in the District of Utah with one count of distribution of information relating to explosives, destructive devices and weapons of mass destruction. Kurbanov has not yet made an appearance in Utah on that charge.

*U.S. v. Mohamed Osman Mohamud* - In the district of Oregon, Mohamud was found guilty of attempting to use a weapon of mass destruction for his attempt to detonate a bomb at the annual Christmas tree lighting ceremony at Pioneer Square in Portland, Oregon. The government successfully litigated before the District Court the legality of the use of certain information acquired pursuant to Section 702 of the FISA Amendments Act. This case is currently being appealed.

*U.S. v. Agron Hasbajrami* – In the Eastern District of New York, Hasbajrami pleaded guilty to attempting to provide material support to terrorists. Hasbajrami’s case arose out of his activities in support of Islamic fundamentalist terrorist organizations and his attempt to travel to Pakistan to join a foreign fighter group. Following imposition of his sentence, the District Court granted the defendant’s motion to vacate and set aside his sentence. Thereafter, the government successfully litigated before the District Court the legality of the use of certain information acquired pursuant to Section 702 of the FISA Amendments Act. This case is currently being appealed.

Finally, given the complexity—and range—of the Department’s national security prosecutions and investigations, NSD has seen steady growth in the work driven by oversight obligations pertaining to national security activities – which ensure that congressional oversight committees are fully informed regarding such activities, as well as in the number of FISA applications filed before the FISC, and requests for assistance in criminal litigation involving FISA-derived information. This growth has outpaced attrition and has brought increased workloads, which are unlikely to diminish in the foreseeable future.

#### **E. Environmental Accountability**

NSD is committed to environmental wellness and participates in DOJ’s green programs.

## **II. Summary of Program Changes (Not Applicable)**



### **III. Appropriations Language and Analysis of Appropriations Language**

#### **Appropriations Language**

##### **SALARIES AND EXPENSES, NATIONAL SECURITY DIVISION**

For expenses necessary to carry out the activities of the National Security Division, [\$95,000,000] \$97,337,000, of which not to exceed \$5,000,000 for information technology systems shall remain available until expended: Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for the activities of the National Security Division, the Attorney General may transfer such amounts to this heading from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section 505 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

#### **Analysis of Appropriations Language**

No change proposed.



## IV. Program Activity Justification

### National Security Division

<i>National Security Division</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	383	354	\$93,000,000
2016 Enacted	393	359	95,000,000
Adjustments to Base and Technical Adjustments	0	5	2,337,000
2017 Current Services	393	364	97,337,000
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	393	364	97,337,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>0</b>

<i>National Security Division-Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	14	14	14,299,000
2016 President's Budget	14	14	14,299,000
Adjustments to Base and Technical Adjustments	0	0	0
2017 Current Services	14	14	14,299,000
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	14	14	14,299,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>0</b>

### 1. Program Description

The National Security Division (NSD) is responsible for:

- overseeing terrorism investigations and prosecutions;
- protecting critical national assets from national security threats, including through handling counterespionage, counterproliferation, and national security cyber cases and matters;
- serving as the Department's liaison to the Director of National Intelligence;
- administering the U.S. Government's national security program for conducting electronic surveillance and physical search of foreign powers and agents of foreign powers pursuant to FISA;



- conducting oversight of certain activities of the IC components and the FBI's foreign intelligence and counterintelligence investigations pursuant to the Attorney General's guidelines for such investigations; and
- assisting the Attorney General and other senior Department and Executive Branch officials in ensuring that the national security-related activities of the U.S. are consistent with relevant law.

In coordination with the FBI, the IC, and the USAOs, NSD's primary operational function is to prevent, deter, and disrupt terrorist and other acts that threaten the U.S., including counterintelligence threats and cyber threats to the national security. The NSD also serves as the Department's liaison to the Director of National Intelligence, advises the Attorney General on all matters relating to the national security activities of the U.S., and develops strategies for emerging national security threats – including cyber threats to the national security.

NSD administers the U.S. Government's national security program for conducting electronic surveillance and physical search of foreign powers and agents of foreign powers pursuant to FISA, and conducts oversight of certain activities of the IC components and the FBI's foreign intelligence and counterintelligence investigations pursuant to the Attorney General's guidelines for such investigations. NSD prepares and files all applications for electronic surveillance and physical search under FISA, represents the government before the FISC, and – when evidence obtained or derived under FISA is proposed to be used in a criminal proceeding – obtains the necessary authorization for the Attorney General to take appropriate actions to safeguard national security. NSD also works closely with the Congressional Intelligence and Judiciary Committees to ensure they are apprised of Departmental views on national security and intelligence policy and are appropriately informed regarding operational intelligence and counterintelligence issues.

In addition, NSD advises a range of government agencies on matters of national security law and policy, participates in the development of national security and intelligence policy through the National Security Council-led Interagency Policy Committee and Deputies' Committee processes, and represents the DOJ on a variety of interagency committees such as the Director of National Intelligence's FISA Working Group and the National Counterintelligence Policy Board. NSD comments on and coordinates other agencies' views regarding proposed legislation affecting intelligence matters, and advises the Attorney General and various client agencies, including the Central Intelligence Agency, the FBI, and the Defense and State Departments concerning questions of law, regulations, and guidelines as well as the legality of domestic and overseas intelligence operations.

NSD also serves as the staff-level DOJ representative on the CFIUS, which reviews foreign acquisitions of domestic entities affecting national security. In this role, NSD evaluates information relating to the structure of transactions, foreign government ownership or control, threat assessments provided by the IC, vulnerabilities resulting from transactions, and ultimately the national security risks, if any, of allowing a transaction to proceed as proposed or subject to conditions. In addition, NSD tracks and monitors transactions that have been approved subject to mitigation agreements and seeks to identify unreported transactions that may require CFIUS



review. On behalf of the Department, NSD also responds to FCC requests for Executive Branch determinations relating to the national security implications of certain transactions that involve FCC licenses. NSD reviews such license applications to determine if a proposed communication provider's foreign ownership, control, or influence poses a risk to national security, infrastructure protection, law enforcement interests, or other public safety concerns sufficient to merit mitigating measures or opposition to the transaction.

Finally, NSD, through its OVT, ensures that the investigation and prosecution of terrorist attacks against American citizens overseas are a high priority within the Department of Justice. Among other things, OVT is responsible for monitoring the investigation and prosecution of terrorist attacks against Americans abroad, working with other Justice Department components to ensure that the rights of victims of such attacks are honored and respected, establishing a Joint Task Force with the Department of State to be activated in the event of a terrorist incident against American citizens overseas, responding to Congressional and citizen inquiries on the Department's response to such attacks, compiling pertinent data and statistics, and filing any necessary reports with Congress.



## 2. Performance Tables

PERFORMANCE AND RESOURCES TABLE						
<b>Decision Unit: National Security Division</b> <b>DOJ Strategic Goal/Objective: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats; 1.2 Prosecute those involved in terrorist acts; 1.3 Investigate and prosecute espionage activity against the U.S., strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threats; and 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors</b>						
WORKLOAD/ RESOURCES	Target	Actual	Projected	Changes	Requested (Total)	
	FY 2015	FY 2015	FY 2016	Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request	
Workload <sup>1</sup>						
Defendants Charged <sup>2</sup>	127	143	137	0	137	
Defendants Closed <sup>3</sup>	112	135	117	5	122	
Matters Opened	72,561	86,652	72,596	13,015	85,611	
Matters Closed	72,658	96,395	72,473	13,010	85,483	
FISA Applications Filed <sup>4</sup>	CY 2015: 2,200	CY 2015: 2,200	CY 2016: 2,200	0	CY 2017: 2,200	
National Security Reviews of Foreign Acquisitions	CY 2015: 225	CY 2015: 222	CY 2016: 225	0	CY 2017: 225	
Total Costs and FTE	FTE \$000	FTE \$000	FTE \$000	FTE \$000	FTE	FTE \$000
(Reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	345 93,000	354 93,000	359 96,000	5 2,337	394 87,337	
	FY 2015	FY 2015	FY 2016	Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request	
Program Activity	FTE \$000	FTE \$000	FTE \$000	FTE \$000	FTE	FTE \$000
Intelligence	202 60,087	207 60,087	197 47,178	2 1,206	199 48,384	
Output Measure	Intelligence Community Oversight Reviews	CY 2015: 97	CY 2015: 124	0	CY 2017: 105	

<sup>1</sup>Workload measures are not performance targets, rather they are estimates to be used for resource planning. In addition, these measures do not take into consideration potential policy changes.

<sup>2</sup>Title has been modified to more accurately reflect the data being collected.

<sup>3</sup>Title has been modified to more accurately reflect the data being collected.

<sup>4</sup>FISA applications filed data is based on historical averages and do not represent actual data, which remains classified until the public report is submitted to the Administrative Office



DOJ Strategy... Goal/Objective: 1.1 Prevent, disrupt, and defeat terrorist operations... are they occur by integrating intelligence and law enforcement efforts... achieve a coordinated response to terrorist threats; 1.2 Prosecute those involved in terrorist acts; 1.3 Investigate and prosecute espionage activity against the U.S., strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threats; and 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors

WORKLOAD/ RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Counterterrorism		85	18,235	87	18,235	90	22,225	0	310	90	22,535
Efficiency Measure		Percentage of OVT responses to victims within 3 business days of victim request for information from OVT		80%		80%		0%		80%	
Outcome Measure		Percentage of services/rights OVT successfully provided to victims of new attacks		95%		95%		0%		95%	
Outcome Measure		Percentage of CT defendants whose cases were favorably resolved		90%		90%		0		90%	
Outcome Measure		Percentage of CE cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process		90%		90%		0		90%	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Counterspyionage		39	11,989	41	11,989	49	22,125	0	309	49	22,434
Outcome Measure		Percentage of CE defendants whose cases were favorably resolved		100%		90%		0		90%	
Outcome Measure		Percentage of CE cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process		90%		90%		0		90%	
Output Measure		FARA inspections completed		14		14		0		14	
Output Measure		High priority national security reviews completed		CY 2015: 35		CY 2016: 35		0		CY 2017: 35	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Cyber		19	2,699	19	2,699	22	3,472	3	512	25	3,984
New FY 2015 Outcome Measure		Percentage of Cyber defendants whose cases were favorably resolved		90%		90%		0		90%	



PERFORMANCE MEASURE TABLE										
Decision Unit: National Security Division										DOJ Strategic
Goal/Objective: 1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats; 1.2 Prosecute those involved in terrorist acts; 1.3 Investigate and prosecute espionage activity against the U.S., strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threat; and 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors										
Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2015	FY 2016	FY 2017	
Measure		Actual	Actual	Actual	Actual	Target	Actual	Target	Target	Target
Performance Measure	Intelligence Community Oversight Reviews	CY 2011: 92	CY 2012: 98	CY 2013: 112	CY 2014: 109	CY 2015: 97	CY 2016: 124	CY 2016: 100	CY 2017: 105	
Efficiency Measure	Percentage of OVI responses to victims within 3 business days of victim request for information from OVI	90%	89%	100%	100%	80%	90%	80%	80%	
Outcome Measure	Percentage of services/rights OVI successfully provided to victims of new attacks	N/A	N/A	94%	95%	95%	95%	95%	95%	
Outcome Measure	Percentage of CT defendants whose cases were favorably resolved	98%	98%	94%	92%	90%	98%	90%	90%	
Outcome Measure	Percentage of CT cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	100%	100%	98%	100%	99%	100%	99%	99%	
Outcome Measure	Percentage of CE defendants whose cases were favorably resolved	98%	100%	100%	98%	90%	100%	90%	90%	
Performance Measure	FARA inspections completed	15	15	15	12	14	14	14	14	
Performance Measure	High priority national security reviews completed	FY 2011: 28	CY 2012: 37 <sup>1</sup>	CY 2013: 30	CY 2014: 32	CY 2015: 35	CY 2016: 38	CY 2016: 35	CY 2016: 35	
Outcome Measure	Percentage of CE cases where classified information is safeguarded (according to CIPA requirements) without impacting the judicial process	100%	100%	100%	100%	99%	100%	99%	99%	
New FY 2014 Outcome Measure	Percentage of Cyber defendants whose cases were favorably resolved	N/A	N/A	NA	NA <sup>2</sup>	90%	100%	90%	90%	

<sup>1</sup> Beginning CY 2012, this measure is tracked on a calendar year basis rather than a fiscal year basis (similar to other agencies in CFJUS and Team Telecom) for ease of reporting.

<sup>2</sup> NSD did report an actual for this measure because no other cases were resolved during the fiscal year.



### **3. Performance, Resources, and Strategies**

For performance reporting purposes, resources for NSD are included under DOJ Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law. Within this Goal, NSD resources address all four Objectives:

- 1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats
- 1.2 Prosecute those involved in terrorist acts
- 1.3 Investigate and prosecute espionage activity against the U.S., strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threats
- 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors

Based on these four objectives, performance resources are allocated to four program activities: Intelligence, Counterterrorism, Counterespionage, and Cyber Security.

#### **A. Performance Plan and Report for Outcomes**

##### **Intelligence Performance Report**

**Measure: Intelligence Community Oversight Reviews**

**CY 2015 Target: 97**

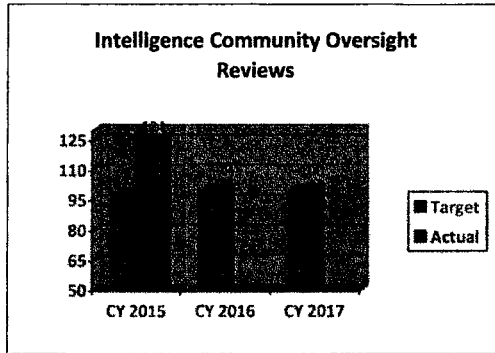
**CY 2015 Actual: 124**

**CY 2016 Target: 100**

**CY 2017 Target: 105**

**Discussion:** The CY 2017 target is consistent with the previous targets. The work in this area is expected to continue to increase in future years due to the expansion of current oversight programs and the development and implementation of new oversight programs, and anticipated new oversight and reporting requirements.





**Data Definition:** NSD attorneys are responsible for conducting oversight of certain activities of IC components. The oversight process involves numerous site visits to review intelligence collection activities and compliance with the Constitution, statutes, AG Guidelines, and relevant Court orders. Such oversight reviews require advance preparation, significant on-site time, and follow-up and report drafting resources. These oversight reviews cover many diverse intelligence collection programs. FISA Minimization Reviews and National Security Reviews will be counted as part of IC Oversight Reviews.

**Data Collection and Storage:** The information collected during each review is compiled into a report, which is then provided to the reviewed Agency. Generally, the information collected during each review, as well as the review reports, are stored on a classified database. However, some of the data collected for each review is stored manually.

**Data Validation and Verification:** Reports are reviewed by NSD management, and in certain instances reviewed by agencies, before being released.

**Data Limitations:** None identified at this time.

## **Counterterrorism Performance Report**

**Measure: Percentage of OVT Responses to Victims within 3 Business Days of Victim Request for Information from OVT**

**FY 2015 Target: 80%**

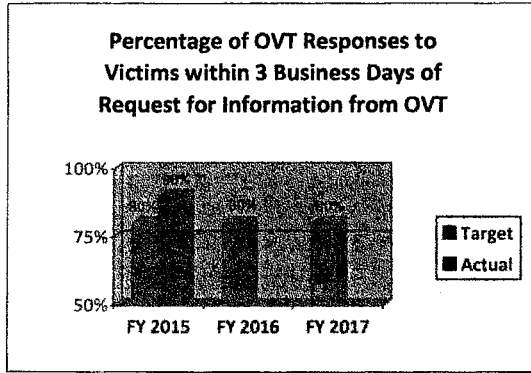
**FY 2015 Actual: 90%**

**FY 2016 Target: 80%**

**FY 2017 Target: 80%**

**Discussion:** The FY 2017 target is consistent with previous years. Additional personnel resources could allow OVT to improve efficiency regarding responses to victims.





**Data Definition:** Victims: American citizens who are the victims of terrorism outside the borders of the U.S. This measure reflects OVT's efficiency in providing information to victims after they have contacted OVT.

**Data Collection and Storage:** Data is collected and stored in an electronic database.

**Data Validation and Verification:** Data is validated by management and staff.

**Data Limitations:** None.

**Measure: Percentage of Services/Rights OVT Successfully Provided to Victims of New Attacks**

**FY 2015 Target: 95%**

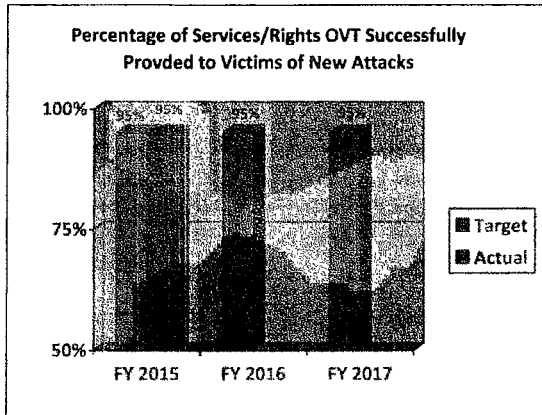
**FY 2015 Actual: 95%**

**FY 2016 Target: 95%**

**FY 2017 Target: 95%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. Additional personnel resources could allow OVT to improve upon its ability to successfully provide victims of new attacks with services/rights.





**Data Definition:** This measure counts the percentage of services/rights OVT provided during the fiscal year that are successfully resolved through the provision of a set group of services. OVT monitors only new attacks that occurred during the fiscal year. Most referrals come from the FBI's Office for Victim Assistance, which will inform OVT when a foreign attack has U.S. victims and the FBI is opening an investigation. Another source for information is CTS, which will inform OVT about foreign and domestic terrorism trials with U.S. victims. In some situations, referrals may come from the State Department, media, or other victims.

**Data Collection and Storage:** For each new attack identified to OVT, OVT creates a paper file to document OVT efforts. The file contains a checklist of services that OVT can either provide or refer to another agency to provide, or which cannot be provided for a legitimate reason (e.g., it would involve divulging National Security information or information pertaining to a criminal justice proceeding that is ongoing at the time). On a quarterly basis, OVT analyzes and reviews the paper files to determine whether the checklist services have been successfully addressed as indicated in the previous sentence. The performance measure is the percentage of services OVT successfully provided during the fiscal year.

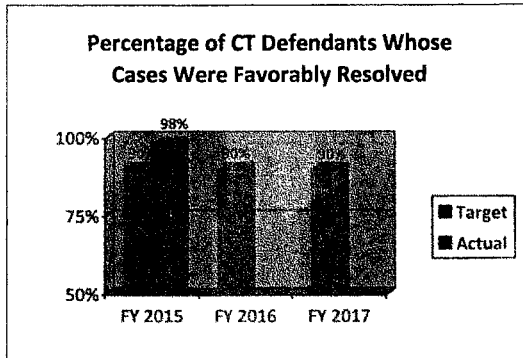
**Data Validation and Verification:** OVT reviews the paper files on a quarterly basis. The information in the paper files is then loaded into OVT's automated Victim/Attack Tracking Tool so the information can be easily accessed.

**Data Limitations:** Some criminal justice proceedings and OVT support efforts will take place over several years, but OVT's efforts will only be reported in the year in which the attack occurred to avoid duplication.



**Measure: Percentage of CT Defendants Whose Cases Were Favorably Resolved****FY 2015 Target: 90%****FY 2015 Actual: 98%****FY 2016 Target: 90%****FY 2017 Target: 90%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. Among the strategies that NSD will pursue in this area are consulting, advising, and collaborating with prosecutors nationwide on international and domestic terrorism prosecutions.



**Data Definition:** Defendants whose cases were favorably resolved include those defendants whose cases were closed during the fiscal year that resulted in court judgments favorable to the government.

**Data Collection and Storage:** Attorneys provide data, which is stored in the ACTS database.

**Data Validation and Verification:** Data validation and verification is accomplished via quarterly review by CTS Chief.

**Data Limitations:** None identified at this time.

**SELECT RECENT COUNTERTERRORISM PROSECUTIONS:**

*Boston Marathon Bombings* – On June 24, 2015, Dzhokhar Tsarnaev was sentenced to death in the District of Massachusetts for his role in the Boston Marathon bombings that occurred on April 15, 2013. As a result of the explosions at the Boston Marathon that day, three people were killed and over two hundred were injured. In addition, an MIT police officer was subsequently killed. Tsarnaev and his brother Tamerlan were identified as the individuals who had left the explosive-laden backpacks at the scene. Tamerlan Tsarnaev died after a gun fight with law enforcement on April 18, 2013. Dzhokhar Tsarnaev was apprehended following an extensive manhunt the next day and charged with numerous offenses including conspiracy to use weapons



of mass destruction, conspiracy to bomb a place of public use, malicious destruction of property, use of a firearm during and in relation to a crime of violence causing death, carjacking resulting in serious bodily injury, and interference with commerce by threats or violence. On April 8, 2015, Tsarnaev was convicted on all 30 counts of the charging document.

*U.S. v. Hage, et al.* – On October 15, 2013, in the Southern District of New York, Anas al Liby (a/k/a Nazih al Raghie) was arraigned after his capture by U.S. military personnel in Libya on October 5, 2013. Al Liby was charged in a tenth superseding indictment that was returned by a federal grand jury in the Southern District of New York on March 12, 2001. He was indicted for his role in al Qaeda's broad conspiracy during the 1990s to kill U.S. nationals throughout the world, which culminated in the near-simultaneous bombings of the U.S. Embassies in Tanzania and Kenya in August 1998. Over 200 people died in those bombings. The superseding indictment charged al Liby with conspiracy to kill U.S. nationals; conspiracy to murder; conspiracy to destroy U.S. property; and conspiracy to attack national defense utilities. Throughout the 1990s, al Liby was alleged to have been closely associated with several senior al Qaeda leaders and to have acted as Usama bin Laden's personal bodyguard at one point. Stemming from this broad conspiracy, several co-conspirators of al Liby's have been convicted over the years in federal court in the Southern District of New York.

Al Liby was set to stand trial on January 12, 2015, but passed away January 2, 2015 while in custody. Al Liby had two co-defendants: Khaled al Fawwaz and Adel Bary. Adel Bary pleaded guilty on September 19, 2014, and on February 6, 2015, was sentenced to twenty-five years' imprisonment. On February 26, 2015, in the Southern District of New York, a jury convicted al Fawwaz of all counts. He was sentenced on May 15, 2015 to life imprisonment.

*U.S. v. Abu Hamza al-Masri, et al.* – On, May 19, 2014, in the Southern District of New York, Mustafa Kamel Mustafa, a/k/a Abu Hamza al-Masri, was convicted by a jury on eleven counts related to his involvement in the hostage taking of tourists in Yemen in 1998, attempting to set up a jihad training camp outside Bly, Oregon, and providing material support to al Qaeda in Afghanistan. Mustafa was sentenced on January 9, 2015, to life in prison. The indictment also charged two co-conspirators, Oussama Abdullah Kassir and Haroon Rashid Aswat. Kassir was convicted in federal court of various terrorism offenses on in May 2009, including his participation in efforts to establish the Bly terrorist training camp, and was sentenced in September 2009 to life in prison. On March 30, 2015, nearly 10 years after an arrest in Zambia and a long extradition process, Aswat pleaded guilty to providing and conspiring to provide material support to a designated terrorist group, al Qaeda, in connection with his efforts to establish the Bly camp. On October 16, 2015, Aswat was sentenced to 20 years in prison.

*New York Subway Bomb Plot / U.S. v. Medunjanin, et al.* – On March 4, 2015, an eighth defendant in this case, Abid Naseer, was convicted of multiple terrorism offenses in the Eastern District of New York. On November 24, 2015, in the Eastern District of New York, he was sentenced to a term of 40 years' imprisonment for his role in the international terrorism conspiracy.



Evidence at trial demonstrated that in 2008 and 2009, al-Qaeda external operations leaders and facilitators located in the Waziristan region of Pakistan tasked Naseer, along with Adis Medunjanin, Najibullah Zazi, Zarein Ahmedzay, and a Norwegian operative to return to their home countries and conduct terrorist attacks. The evidence revealed that these Western operatives all traveled to Pakistan and met with al-Qaeda members who provided them with training. They subsequently returned to their respective target locations to begin preparing for attacks.

Medunjanin, Zazi, and Ahmedzay (cooperating with authorities) came within days of executing a plot to conduct coordinated suicide bombings in the New York City subway system in September 2009, as directed by senior al Qaeda leaders in Pakistan. When the plot was foiled, Medunjanin attempted to commit a terrorist attack by crashing his car on the Whitestone Expressway in New York in an effort to kill himself and others. Medunjanin was sentenced to life imprisonment, and Amanullah Zazi was sentenced to 40 months' imprisonment with a judicial order of removal to Pakistan upon completion of his sentence. On May 20, 2014, the Court of Appeals for the Second Circuit affirmed the conviction of Adis Medunjanin.

As to Naseer specifically, evidence collected by law enforcement from the United Kingdom demonstrated that between November 2008 and April 2009, he, another Pakistani named Tariq ul-Rahman, and several associates from Liverpool, United Kingdom, prepared to conduct a terrorist attack in Manchester in mid-April 2009. Naseer and the others purchased ingredients and components for explosives, conducted reconnaissance at potential target locations, transported reconnaissance photographs back and forth to Pakistan, and maintained frequent contact with al-Qaeda leadership. Law enforcement disrupted the plot and arrested the subjects in April 2009.

*U.S. v. Muhanad Mahmoud Al Farekh* - On May 28, 2015, a grand jury returned a three-count indictment charging Al Farekh with conspiring to provide material support to terrorists, attempting to provide material support to terrorists, and providing material support to terrorists, all in violation of 18 U.S.C. § 2339A.

Al Farekh is alleged, along with two co-conspirators, to have entered into an agreement to travel from Winnipeg, Canada, where the three men were enrolled as students, to the Federally Administered Tribal Areas ("FATA") of Pakistan with the intention of training for violent jihad against U.S. personnel operating in Afghanistan. The men discussed jihad and viewed videos encouraging violence, including lectures by the now-deceased al-Qaeda leader Anwar al-Awlaki. The witnesses also observed the men making preparations for travel that included liquidating assets and purchasing gear such as mountain boots. In March 2007, the three men traveled to Karachi, Pakistan using round trip tickets with tourist visas. The return tickets were never used, and to date, there is no record that either Al Farekh or his co-conspirators lawfully re-entered the United States or Canada. Additionally, two cooperating witnesses who traveled to the FATA to fight violent jihad and join al-Qaeda in Spring of 2008 indicate that they received weapons training at an al-Qaeda training camp in the FATA from one of Al Farekh's co-conspirators.



U.S. v. Khatallah ("Benghazi") – Ahmed Abu Khatallah faces charges in the District of Columbia for the terrorist attack on the United States Special Mission in Benghazi, Libya, on September 11, 2012, and a second attack the following day at a nearby U.S. facility known as the Annex. The attacks resulted in the deaths of four American citizens: U.S. Ambassador to Libya J. Christopher Stevens and Information Management Officer Sean Patrick Smith at the Special Mission, and Security Officers Tyrone Snowden Woods and Glen Anthony Doherty at the Annex. Khatallah was arrested on June 28, 2014, on a sealed indictment.

On October 14, 2014, a nineteen-count superseding indictment was returned against Khatallah, charging him for various offenses stemming from the attacks, to include: murder of an international protected person, in violation of 18 U.S.C. §§ 1116 and 1111; murder of an officer and employee of the United States, in violation of 18 U.S.C. §§ 1114 and 1111, 2; attempted murder of an officer and employee of the United States, in violation of 18 U.S.C. §§ 1114 and 1113; killing a person in the course of an attack on a federal facility involving the use of a firearm and dangerous weapon, in violation of 18 U.S.C. §§ 939(c) and 1111; maliciously damaging and destroying U.S. property by means of fire and an explosive causing death, in violation of 18 U.S.C. §§ 844(f)(1) & (3); and various other weapons, terrorism, and destruction of property charges, in violation of 18 U.S.C. §§ 924(c); 2339A; and 1363. On August 3, 2015, Khatallah filed various motions to dismiss the superseding indictment alleging lack of extraterritorial jurisdiction and that the charges are unconstitutionally vague and overbroad, among other things. A trial date has not yet been scheduled.

U.S. v. Hamidullin – On December 3, 2015, Irek Ilgiz Hamidullin, a Russian national, was sentenced in the Eastern District of Virginia to life imprisonment for his role in a November 29, 2009, attack against Camp Leyza, an Afghan Border Police camp in Khowst province. He received an additional thirty years for a related weapons charge. On November 29, 2009, Hamidullin planned and carried out the attack with a group of insurgents. He had previously communicated with Sirajuddin Haqqani, a leader of Taliban insurgents in and around Khowst Province in Afghanistan, and a commander of the Haqqani Network, to select a target to attack in Afghanistan. He conducted reconnaissance of Camp Leyza and developed a plan of attack. He obtained weapons (including heavy machine guns and a rocket propelled grenade launcher) and ammunition for use in the attack and was the commander of the insurgent group that carried out the attack. Hamidullin was charged in a 12 count indictment in the Eastern District of Virginia with conspiracy to provide material support to terrorists, providing material support to terrorists, conspiracy and attempt to destroy an aircraft of the armed forces of the United States, conspiracy and attempt to kill an officer or employee of the United States or a person assisting such officer or employee, conspiracy and attempt to murder a national of the United States, engaging in physical violence with intent to cause bodily injury to a national of the United States, conspiracy to use a weapon of mass destruction, and possession of and conspiracy to possess a firearm in connection with a crime of violence. On August 7, 2015, in the Eastern District of Virginia, Richmond Division, Hamidullin was convicted by a federal jury of all fifteen counts charged against him.



*U.S. v. Fazliddin Kurbanov* – On August 12, 2015, in the District of Idaho, Kurbanov was convicted by a federal jury of counts one, three, and four charged against him in the superseding indictment. Count one charged Kurbanov with conspiracy to provide material support to a designated foreign terrorist organization, in violation of 18 U.S.C. § 2339B; count three charged him with possession of an unregistered firearm (a destructive device), in violation of 26 U.S.C. § 5861(d); and count four charged him with attempting to provide material support to a designated foreign terrorist organization, in violation of 18 U.S.C. § 2339B. On January 7, 2016, Kurbanov was sentenced to 25 years’ imprisonment and 3 years of supervised release.

On May 16, 2013, Fazliddin Kurbanov, an Uzbekistan national residing in the U.S., was indicted by a grand jury in Boise, Idaho, on three charges, including conspiracy to provide material support to a designated Foreign Terrorist Organization; conspiracy to provide material support to terrorists; and possession of an unregistered firearm. On the same day, Kurbanov was also indicted by a grand jury in the District of Utah charging him with one count of distribution of information relating to explosives, destructive devices, and weapons of mass destruction. The Idaho indictment alleges that between August 2012 and May 2013, Kurbanov knowingly conspired with unnamed co-conspirators to provide material support and resources to the Islamic Movement of Uzbekistan, a designated foreign terrorist organization. The indictment also alleges that the material support and resources included himself, computer software, and money. In count two, the indictment further alleges that the defendant conspired to provide material support and resources, including himself, to terrorists knowing that the material support was to be used in preparation for and in carrying out an offense involving the use of a weapon of mass destruction. On December 2, 2014, in the District of Idaho, Fazliddin Kurbanov was arraigned on a superseding indictment. On November 14, 2014, a superseding indictment was returned charging him with two additional counts: one count of Attempting to Provide Material Support to a Designated Foreign Terrorist Organization (the Islamic Movement of Uzbekistan), in violation of 18 U.S.C. § 2339B; and one count of Attempting to Provide Material Support to Terrorists, in violation of 18 U.S.C. § 2339A.

*US v. Ferizi* - On October 6, 2015, in the Eastern District of Virginia, a sealed complaint was filed against Ardit Ferizi, also known by the online moniker “Th3Dir3ctorY,” charging him with one count of providing material support to ISIL, in violation of 18 U.S.C. § 2339B, one count of accessing a protected computer without authorization, in violation of 18 U.S.C. § 1030, and one count of aggravated identity theft, in violation of 18 U.S.C. § 1028A.

Ferizi led a Kosovo-based hacking group and used his hacking skills to intrude into a United States company’s server to steal more than 1,000 United States government employees’ personally identifiable information (PII). Ferizi provided the PII to a known ISIL member, knowing that it would be used to attempt to harm government employees.

On August 11, 2015, the Islamic State Hacking Division, using the PII, published a “kill list” online and identified the names and home addresses of more than 1,000 United States government employees, including military and law enforcement personnel. The FBI investigation also revealed that Ferizi provided additional PII of Western individuals to another



ISIL member. On October 15, 2015 the criminal complaint was unsealed and extradition proceedings are ongoing.

US v. Marquez, Jr. - On Wednesday, December 30, 2015, in the Central District of California, a federal grand jury returned a five-count indictment against Enrique Marquez, Jr. ("Marquez") charging Marquez with the following: count one, conspiring to provide material support and resources to terrorists, in violation of 18 U.S.C. § 2339A(a); counts two and three, making a false statement in connection with acquisition of firearms from a licensed firearms dealer, in violation of 18 U.S.C. § 922(a)(6); count four, marriage fraud, in violation of 8 U.S.C. § 1325(c); and count five, participating in fraud and misuse of visas, permits, and other documents, in violation of 18 U.S.C. § 1546.

The conduct charged in the indictment relates to Marquez's involvement with Syed Rizwan Farook ("Farook"), the deceased male shooter from the December 2, 2015, shooting in San Bernardino, California. Marquez admitted to law enforcement that beginning in approximately 2011, Marquez and Farook began planning to commit terrorist acts by using firearms and explosives to attack Riverside Community College ("RCC") and State Route 91 ("SR-91"). Marquez and Farook took steps to carry out their plans by purchasing firearms, ammunition, and other tactical gear, as well as going to local firing ranges.

In late 2011 and early 2012, Marquez purchased firearms on two occasions from local sporting goods stores. Marquez admitted buying the rifles for Farook as a part of their plans to attack RCC and SR-91. Moreover, in 2012, Marquez purchased a bottle of smokeless powder for the purpose of making explosives with Farook for a future attack. In 2013, Marquez's and Farook's contact began to decline and according to Marquez they ceased planning any attacks together. Nevertheless, law enforcement has identified the two rifles Marquez purchased for Farook in 2011-2012 as being used in the December 2nd shooting. The black powder Marquez purchased for Farook was traced to the improvised explosive device found at the scene of the December 2nd shooting.

Additionally, the indictment alleges Marquez entered into a fraudulent marriage for the purpose of obtaining immigration benefits for a woman who was the sister of the wife of Farook's brother. Specifically, in July 2014, Marquez submitted documents to the Department of Homeland Security, United States Citizenship and Immigrations Services in which he submitted false statements to the effect that he lived with his sham wife, when, in truth, the sham wife was living with her boyfriend and young child that she had with the boyfriend. Marquez admitted, and financial records confirmed, that Marquez was paid \$200.00 a month for this illegal activity.

#### FOREIGN TERRORIST FIGHTER CASES:

There have been a number of prosecutions in the last year involving American citizens attempting to travel to Syria to join the conflict there. A sample of those cases includes:



*U.S. v. Juraboev, et al.* – On February 25, 2015, three individuals – Abdurasul Juraboev, Akhror Saidakhmetov, and Abror Habibov – were arrested on a complaint out of the Eastern District of New York for attempting and conspiring to provide material support to a foreign terrorist organization, Islamic State in Iraq and the Levant (“ISIL”), in violation of 18 U.S.C. § 2339B. Saidakhmetov was arrested attempting to board a flight to Turkey at John F. Kennedy International Airport. From Turkey, Saidakhmetov had planned to travel onward to Syria to join ISIL. Juraboev, who was arrested at his residence that same night, had purchased an airline ticket to follow Saidakhmetov to Syria a few weeks later. Also arrested was Habibov, Saidakhmetov’s employer, who had purchased Saidakhmetov’s airline ticket and attempted to organize funding to assist him in joining ISIL. Juraboev and his co-conspirators initially came to the attention of the FBI after Juraboev made a posting on a pro-ISIL website offering his allegiance to ISIL and asking if he could commit a martyrdom action in the United States on their behalf by killing President Obama. Later, Juraboev decided that he would prefer to wage violent jihad on behalf of ISIL by fighting in Syria, and he and Saidakhmetov planned to travel there together.

On March 9, 2015, Juraboev, Saidakhmetov, and Habibov were charged in a four-count indictment. Each defendant was charged with one count of attempting and one count of conspiring to provide material support to a designated foreign terrorist organization, ISIL, in violation of 18 U.S.C. § 2339B. Saidakhmetov and Habibov were additionally charged with one count each of conspiring to use a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(o), based on statements they made about purchasing a weapon for Saidakhmetov to use to fight in Syria. Finally, Saidakhmetov was charged with one count of travel document fraud, in violation of 18 U.S.C. § 1546, for making false statements in his application for a travel document to leave the United States for Turkey.

On April 6, 2015, the grand jury returned a superseding indictment charging an additional defendant, Dilkhayot Kasimov, with one count of attempting and one count of conspiring to provide material support to a designated foreign terrorist organization, ISIL, in violation of 18 U.S.C. § 2339B. The charges were based on Kasimov’s activities on the night of Saidakhmetov’s attempted travel, during which Kasimov met Saidakhmetov at the airport and delivered approximately \$1,600 to Saidakhmetov before Saidakhmetov went through security. The money had been collected from numerous individuals by Habibov and Kasimov, and was intended for Saidakhmetov’s use in Syria.

On June 8, 2015, the grand jury returned a third superseding indictment charging Akmal Zakirov with one count of attempting and one count of conspiring to provide material support to ISIL in violation of 18 U.S.C. § 2339B. These charges stemmed from Zakirov’s attempts to raise funds to assist Saidakhmetov in his travel to Syria.

On August 14, 2015, Juraboev pled guilty to one count of 18 U.S.C. § 2339B, pursuant to a plea agreement. Juraboev faces a sentence of up to 15 years’ incarceration.



U.S. v. Jordan, et al. – On April 1, 2014, in the Eastern District of North Carolina, a grand jury returned a one-count indictment charging Avin Marsalis Brown and Akbar Jihad Jordan with conspiracy to travel overseas to provide material support for terrorists, in violation of 18 U.S.C. § 2339A. Jordan and Brown conspired to travel overseas to engage in violent jihad against “kuffars” or non-Muslims. Jordan and Brown, on numerous occasions, discussed traveling to Yemen, Syria, and other locations to fight, and undertook concrete steps to further this purpose. Specifically, they contacted other westerners who were fighting in Syria with Islamist groups, researched the safest modes of travel to countries to conduct violent jihad, and undertook efforts to obtain travel documents. Jordan, who possessed an AK-47 and other weapons, counseled Brown in the proper use of firearms and practiced fighting techniques and procedures with him. Brown obtained a United States Passport and purchased a ticket to fly to Turkey with the intent of crossing the border into Syria. He was arrested on March 19, 2014, at the Raleigh-Durham International Airport prior to the scheduled departure of his flight. Jordan had a passport application appointment for March 21, 2014, but was arrested prior to the appointment. Brown and Jordan both pled guilty pursuant to cooperation plea agreements, and sentencing has been rescheduled for both Jordan and Brown on March 8, 2016.

U.S. v. Hodzic, et al. – Abdullah Ramo Pazara left St. Louis in May 2013, and allegedly traveled to Syria to become a mujahideen and assist foreign fighters. While in Syria, Pazara communicated with six individuals through Facebook seeking financial support: Siki Ramiz Hodzic, Sedina Hodzic, Mediha Salkicevic, Jasminka Ramic, Armin Harcevic, and Nihad Rosic. Each of these individuals contributed financially by sending funds to Hodzic in St. Louis. The funds were then sent to a third-party intermediary overseas before reaching Pazara in Syria. Pazara also requested that Hodzic provide military supplies to him such as optics, firearms accessories, camouflage clothing, military boots and gloves. These supplies were sent to and received by Pazara in September 2013. Pazara died in September 2014. On February 6, 2015, a grand jury returned an indictment charging all six individuals with conspiracy and attempt to provide material support to terrorists, in violation of 18 U.S.C. § 2339A, based on their financial support to Pazara.

In addition to providing financial support, Siki Ramiz Hodzic also allegedly provided military tactical advice to Pazara and other foreign fighters, while Rosic made two attempts to travel to Syria to join Pazara and the foreign fighters. As such, Hodzic and Rosic are also charged with conspiracy to kill and maim persons in a foreign country, in violation of 18 U.S.C. § 956. Prior to his death in September 2014, Pazara bragged on various social networks about his success on the battlefield to include killing numerous individuals and being present at the beheadings of the two American journalists. The case remains ongoing.

U.S. v. Hamza Naj Ahmed - On May 18, 2015, in the District of Minnesota, a federal grand jury returned a superseding indictment in the case of *United States v. Hamza Naj Ahmed*, adding six new defendants. Based on Ahmed’s attempt to leave the United States in early November 2014, along with others from Minneapolis, with a goal of traveling to Syria to fight for ISIL, Ahmed was originally charged in a February 19, 2015, indictment with conspiracy to provide material support to ISIL in violation of 18 U.S.C. § 2339B; attempt to provide material support to ISIL in



violation of 18 U.S.C. § 2339B; and providing a false statement to FBI agents in violation of 18 U.S.C. § 1001.

The nine-count, superseding indictment adds six new defendants to the conspiracy charge: Mohamed Farah, Adnan Farah, Abdurahman Daud, Zacharia Abdurahman, Hanad Musse, and Guled Omar. The superseding indictment also adds new charges of attempt to provide material support to ISIL against Mohamed Farah, Daud, Omar, Musse, and Abdurahman related to attempts the defendants made to travel to Syria to fight for ISIL; an additional false statement charge against Mohamed Farah concerning his failed attempt to leave the United States in November 2014; and individual counts of federal financial aid fraud against Mohamed Farah and Musse, who partially financed their abortive trips with student loan funds, in violation of 20 U.S.C. § 1097(a).

The six newly-added defendants were arrested on April 19, 2015, outside San Diego, California (Mohamed Farah and Daud), and in Minneapolis (Adnan Farah, Omar, Musse, and Abdurahman) on a federal criminal complaint which alleged conspiracy and attempt to provide material support to ISIL, and false statements to FBI agents. At the time of their April arrest, Mohamed Farah and Daud had driven from Minneapolis to San Diego to obtain bogus United States passports which they intended to use to facilitate travel to Syria.

Two defendants, Hanad Musse and Zacharia Abdurahman, have entered guilty pleas in September 2015 to charges of conspiracy to provide material support to ISIL, in violation of 18 U.S.C. § 2339B. Trial is set for March 2016.

*U.S. v. Elhuzayel, and Badawi* – On June 3, 2015, in the Central District of California, an indictment was returned charging Muhanad Badawi and Nader Elhuzayel with one count of conspiring to provide material support and resources to the Islamic State of Iraq (ISIL), a designated Foreign Terrorist Organization (FTO), in violation of 18 U.S.C. § 2339B. Additional counts to the indictment charge Elhuzayel with one count of attempting to provide material support, namely himself, to ISIL, in violation of 18 U.S.C. § 2339B; and charge Badawi with one count of aiding, counseling, commanding, inducing, and procuring Elhuzayel to attempt to provide material support to ISIL, in violation of 18 U.S.C. §§ 2339B and 2. Badawi and Elhuzayel used social media to discuss ISIL and terrorist attacks, expressed a desire to die as martyrs and made arrangements for Elhuzayel to leave the United States to join ISIL. In recorded conversations, Badawi and Elhuzayel “discussed how it would be a blessing to fight for the cause of Allah, and to die in the battlefield,” and they referred to ISIL as “we.” The defendants discussed where in the Middle East they would rather be, and Elhuzayel said he wanted to fight and did not want to be in the United States. On May 7, Badawi purchased a one-way airline ticket for Elhuzayel to travel from Los Angeles to Tel Aviv, Israel, via Istanbul, Turkey, on a Turkish Airlines flight scheduled to depart on May 21. Badawi indicated that he would be traveling to the Middle East in the future. Elhuzayel was arrested at Los Angeles International Airport while waiting for his flight. Elhuzayel admitted, after being read his



Miranda rights, that, he planned to disembark in Istanbul to join ISIL and did not intend to travel on to Israel. Trial is set for June 2016.

### CASES INVOLVING THE THREAT OF DOMESTIC TERRORISM AND/OR HOMEGROWN VIOLENT EXTREMISM

There have also been a number of cases involving the threat of domestic terrorism, lone wolves, and homegrown violent extremism.

U.S. v. Cornell - On January 21, 2015, in Cincinnati, Ohio, Christopher Lee Cornell, a/k/a, Raheel Mahrus Ubaydah, was charged by a federal grand jury in a three count Indictment with attempting to kill employees and officers of the United States, in violation of 18 U.S.C. § 1114, solicitation of a crime of violence, in violation of 18 U.S.C. § 373, and possessing firearms in furtherance of an attempted crime of violence, in violation of 18 U.S.C. § 924(c). Cornell devised a plan to assault the United States Capitol during the State of the Union Address in an effort to murder United States Congressional Representatives and other officers and employees of the United States. He planned to detonate pipe bombs in front of the Capitol, both as a diversionary tactic and to kill guards, followed by an assault on the Capitol itself with rifles. On January 14, 2015, in furtherance of the aforementioned plan, Cornell purchased two Armalite Inc., Model M-15, 5.56mm, semi-automatic rifles and approximately 600 rounds of ammunition from a firearms store located in Cincinnati, Ohio. Cornell planned to transport these weapons to Washington, D.C. and use them to attack the Capitol in a manner similar to a recent attack on the Canadian Parliament. Cornell was arrested by the FBI in Ohio immediately after he purchased the weapons and ammunition.

U.S. v. Loewen - On December 13, 2013, Terry Lee Loewen was arrested while attempting to access the tarmac of the Wichita Mid-Continent Airport with what he believed to be a functional vehicle-borne improvised explosive device (VBIED). Until that time, Loewen was an avionics technician at the Wichita Mid-Continent Airport. Over previous months, he had unknowingly been speaking with FBI undercover agents as he expressed a desire and developed a plan to utilize his airport access to conduct a terrorist plot. He surveilled the Wichita airport's access points and security, and helped build and wire the VBIED. Loewen planned, with the help of an FBI employee he believed to be a member of Al Qaeda in the Arabian Peninsula (AQAP), to detonate the bomb by the airport terminal in the early morning in order to maximize casualties. In a letter left for a family member, he said people would rightfully call him a "terrorist" and that it was true the attack had been planned for "maximum carnage + death." On December 18, 2013, Loewen was indicted with one count of attempted use of a weapon of mass destruction, in violation of 18 U.S.C. § 2332a, one count of attempted destruction of property by an explosive device, in violation of 18 U.S.C. § 844(i), and one count of attempted material support of a designated foreign terrorist organization, AQAP, in violation of 18 U.S.C. § 2339B. On June 8, 2015, Loewen pled guilty to attempted use of a weapon of mass destruction, in violation of 18 U.S.C. § 2332a. On August 31, 2015, he was sentenced to 20 years' imprisonment and a lifetime of supervised release pursuant to his plea agreement.



## BIOLOGICAL TOXIN/DOMESTIC TERRORISM CASES:

There has also been an increase in cases involving biological toxins, such as ricin. Below is a sampling of these cases:

U.S. v. Korff – On February 18, 2015, in the District of New Jersey, Jesse Korff was sentenced to 110 months’ imprisonment. On August 12, 2014, Korff pleaded guilty to an information charging him with five counts of developing and transferring a biological toxin (abrin), in violation of 18 U.S.C. § 175(a); five counts of exporting a biological toxin, in violation of 18 U.S.C. § 554(a), and one count of conspiring to kill a person in a foreign country, in violation of 18 U.S.C. § 956. Korff was arrested on January 18, 2014, outside Ft. Myers, Florida, after a joint FBI and DHS (Homeland Security Investigations (HSI)) investigation revealed that Korff was making biological toxins for use as weapons and selling them over the internet. Korff allegedly produced and then sold biological toxins, knowing that the buyers were intending to use them to kill other people. After Korff’s conviction on January 12, 2015, the defendant filed a notice of appeal on January 23, 2015.

U.S. v. Levenderis – On June 4, 2014, in the Northern District of Ohio, Jeff Boyd Levenderis was convicted by a federal jury on all four counts of a superseding indictment relating to his possession ricin for use as a weapon – namely, that he: 1) knowingly developed, produced, stockpiled, retained and possessed a biological toxin and delivery system (ricin), for use as a weapon, in violation of 18 U.S.C. § 175(a); (2) knowingly possessed a biological toxin (ricin) of a type or quantity not reasonably justified by peaceful purposes, in violation of 18 U.S.C. § 175(b); and (3) made two material, false statements to the FBI (that the substance was not ricin), both in violation of 18 U.S.C. § 1001. After the jury verdict, the defendant moved for acquittal on the basis of *Bond v. United States*, A Supreme Court case limiting the application of the closely-related chemical weapons statute, decided on June 2, 2014. On September 19, 2014, the court rejected the *Bond* challenge. On September 29, 2014, he was sentenced to 72 months’ imprisonment, and on October 9, 2014, he filed notice of appeal in Sixth Circuit of Appeals. Briefing of the appellate case was completed June 8, 2015. On November 12, 2015, the Sixth Circuit (Merritt, Daughtrey, Griffin) affirmed the conviction of Jeff Boyd Levenderis for one count of possessing a biological weapon, in violation of 18 U.S.C. § 175(a), and two counts of making false statements to federal agents, in violation of 18 U.S.C. § 1001(a)(2).

U.S. v. Crump, et al. – On November 14, 2014, in the Northern District of Georgia, Raymond Adams and Samuel Crump were both sentenced to 120 months’ imprisonment to be followed by 5 years’ supervised release. On January 17, 2014, in the Northern District of Georgia, Samuel Crump and Raymond Adams were found guilty of conspiracy to possess and produce a biological toxin (ricin) and possession of a biological toxin (castor beans) for use as a weapon, both in violation of 18 U.S.C. § 175(a). Adams was found not guilty of a third count, attempted production of a biological toxin (ricin) for use as a weapon, also in violation 18 U.S.C. § 175(a). In 2010, the FBI identified Crump and Adams during the course of an FBI investigation into members of a covert, anti-government association known as the Militia of Georgia (“MoG”). A confidential human source recorded meetings of MoG members, including Crump and Adams, at



which participants discussed means of attacking urban population centers with biological weapons, including ricin. During a search, the FBI recovered more than 500 castor beans from Crump's and Adams's properties, as well as recipes for extracting ricin from castor beans. In addition, the FBI seized 33 mason jars from Adams's residence which contained a brown, liquid substance that has since tested positive for the presence of ricin. Two other MoG members previously pleaded guilty and were sentenced. On November 24, 2014, notice of appeal was filed on behalf of Crump. On July 6, 2015, Crump's conviction was affirmed by the Eleventh Circuit.

**Measure: Percentage of CT Cases Where Classified Information is Safeguarded (according to CIPA requirements) Without Impacting the Judicial Process**

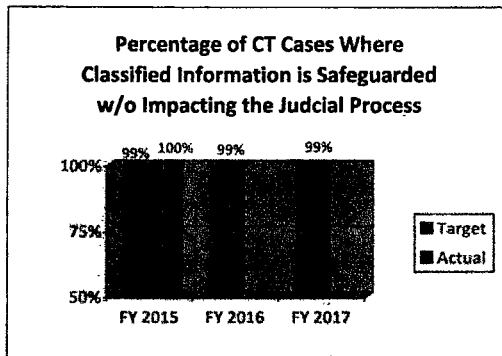
**FY 2015 Target: 99%**

**FY 2015 Actual: 100%**

**FY 2016 Target: 99%**

**FY 2017 Target: 99%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. NSD will support successful prosecutions by providing advice and assistance on the use of classified evidence through the application of the Classified Information Procedures Act (CIPA).



**Data Definition:** Classified information - information that has been determined by the U.S. Government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data as defined by the Atomic Energy Act of 1954. Safeguarded - that the confidentiality of the classified information is maintained because the Government has proposed redactions, substitutions or summarizations pursuant to CIPA which the Court has accepted.

Impact on the judicial process - that the Court does not exclude certain evidence, dismiss particular counts of the indictment, or dismiss the indictment as a remedy for the Government's insistence that certain classified information not be disclosed at trial.

**Data Collection and Storage:** Data collection and storage is manual.



**Data Validation and Verification:** Data validation and verification is accomplished via quarterly review by CTS Chief.

**Data Limitations:** None identified at this time.

## **Counterespionage (CE) Performance Report**

**Measure: Percentage of CE Defendants Whose Cases Were Favorably Resolved**

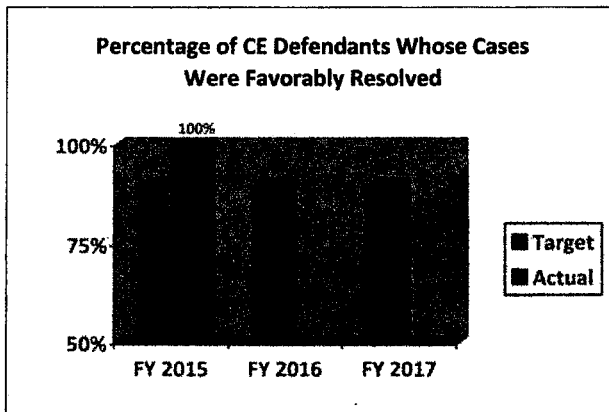
**FY 2015 Target: 90%**

**FY 2015 Actual: 100%**

**FY 2016 Target: 90%**

**FY 2017 Target: 90%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. Among the strategies that NSD will pursue in this area are: supporting and supervising the prosecution of espionage and related cases through coordinated efforts and close collaboration with Department leadership, the FBI, the IC, and the 94 USAOs; assisting in and overseeing the expansion of investigations and prosecutions into the unlawful export of military and strategic commodities and technology; and coordinating and providing advice in connection with cases involving the unauthorized disclosure of classified information.



**Data Definition:** Defendants whose cases were favorably resolved include those defendants whose cases were closed during the fiscal year that resulted in court judgments favorable to the government.

**Data Collection and Storage:** Attorneys provide data which is stored in the ACTS database.

**Data Validation and Verification:** Quarterly review of database records and data updates from CES attorneys in order to ensure that records are current and accurate.

**Data Limitations:** Reporting lags.



### **Select Recent Counterintelligence and Export Control Prosecutions**

**Navy Engineer Sentenced for Attempted Espionage** – On October 15, 2015, in the Eastern District of Virginia, Mostafa Ahmed Awwad was sentenced to 132 months in prison. On June 15, 2015, Awwad had pleaded guilty to a criminal information charging him with attempted espionage. Awwad attempted to provide schematics of the U.S. Navy’s newest nuclear aircraft carrier, the USS Gerald R. Ford, to an individual he believed to be an Egyptian intelligence officer, but who was in fact an undercover FBI agent. Awwad began working for the Navy in February 2014 as a civilian engineer at the Norfolk Naval Shipyard. Based on a joint FBI/NCIS investigation, an undercover FBI agent contacted Awwad by telephone in September 2014 and asked to meet him. The next day, Awwad met with the undercover FBI agent, who was posing as an Egyptian intelligence officer. During the meeting, Awwad claimed it was his intention to utilize his position with the U.S. Navy to obtain military technology for use by the Egyptian Government, including the designs of the new Navy “supercarrier.” Several times before he was arrested, Awwad met with the undercover agent and provided schematics of the USS Gerald R. Ford in exchange for cash.

**Unlawful Services in Iran and Sudan** – On April 30, 2015, in the District of Columbia, Schlumberger Oilfield Holdings, Ltd. (SOHL) pleaded guilty to a conspiracy to violate the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. § 1705, the Iranian Transactions Regulations, 31 C.F.R. Part 560, and the Sudanese Sanctions Regulations, 31 C.F.R. Part 538. Consistent with the plea agreement, SOHL was sentenced to the maximum criminal fine of \$155,138,904 and a three-year period of corporate probation. In addition to the criminal fine, SOHL is required to pay a criminal forfeiture amount of \$77,569,452. The criminal fine represents the largest criminal fine in connection with an IEEPA prosecution. In addition to SOHL’s agreement to continue its cooperation with U.S. authorities throughout the three-year period of probation and not to engage in any felony violation of U.S. federal law, SOHL’s parent company, Schlumberger Ltd., also has agreed to continue its cooperation with U.S. authorities during the three-year period of probation, withdraw its operations from Iran and Sudan, and hire an independent consultant who will review the parent company’s internal sanctions policies, procedures and company-generated sanctions audit reports. Starting in or about early 2004 and continuing through June 2010, Drilling & Measurements (D&M), a U.S.-based Schlumberger business segment, provided oilfield services to Schlumberger customers in Iran and Sudan through non-U.S. subsidiaries of SOHL.

**WMD Materials to North Korea** – On April 24, 2015, Yueh-Hsun Tsai, a.k.a. “Gary Tsai”, was sentenced in the Northern District of Illinois to 3 years of probation and a fine of \$250. On March 16, 2015, Hsien Tai Tsai, a.k.a. “Alex Tsai”, was sentenced to 2 years imprisonment and \$100 special assessment. Previously, on October 10, 2014, Alex Tsai pleaded guilty to conspiracy to defraud the U.S. in its enforcement of regulations targeting proliferators of weapons of mass destruction. On December 16, 2014, his son, Gary Tsai, pleaded guilty to a superseding information charging him with making a false bill of lading. Each was charged with conspiring to defraud the U.S. in its enforcement of laws prohibiting the proliferation of weapons of mass destruction; conspiracy to violate the International Emergency Economic Powers Act



(IEEPA) by conspiring to evade the restrictions imposed on Alex Tsai and two of his companies by the U.S. Treasury Department, and money laundering. On January 16, 2009, the Treasury Department designated Alex Tsai, Global Interface, and Trans Merits as proliferators of weapons of mass destruction, isolating them from the U.S. financial system and prohibiting any U.S. person or company from doing business with them. The Treasury Department asserted that Alex Tsai "has been supplying goods with weapons production capabilities to KOMID and its subordinates since the late 1990s, and he has been involved in shipping items to North Korea that could be used to support North Korea's advanced weapons program."

*Former Los Alamos National Laboratory Scientist Sentenced for Atomic Energy Act Violations* – On January 28, 2015, in the District of New Mexico, Pedro Leonardo Mascheroni was sentenced to 60 months in prison for Atomic Energy Act and other violations relating to his communication of classified nuclear weapons data to a person he believed to be a Venezuelan government official. Mascheroni formerly was employed as a scientist at the Los Alamos National Laboratory from 1979 to 1988 and held a security clearance that allowed him access to certain classified information. In his plea agreement, Mascheroni admitted that in November 2008 and July 2009 he unlawfully communicated restricted data to another individual with reason to believe that the data would be utilized to secure an advantage to Venezuela. He also admitted to unlawfully converting Department of Energy information to his own use and selling the information, as well as failing to deliver classified information relating to U.S. national defense to appropriate authorities and instead unlawfully retaining the information in his home. Finally, Mascheroni admitted to making materially false statements when he was interviewed by the FBI.

*Sanctions Violations to Aide Zimbabwean Government Officials* – On January 21, 2015, C. Gregory Turner, also known as Greg Turner, was sentenced in the Northern District of Illinois to 15 months in prison, one year supervised release, \$100 special assessment, and received an abstract of judgment in the amount of \$90,000. Previously, on October 10, 2014, Turner was convicted by a federal jury of conspiracy to violate the International Emergency Economic Powers Act (IEEPA) from late 2008 through early 2010 by agreeing to assist Zimbabwe President Robert Mugabe and others in an effort to lift economic sanctions against Zimbabwe. Turner met multiple times in the U.S. and in Africa with Zimbabwean government officials, including President Mugabe and Gideon Gono, governor of the Reserve Bank of Zimbabwe, who were individually subject to U.S. sanctions. A November 2008 consulting agreement provided for a total payment of \$3.4 million in fees for Turner and his co-defendant, Prince Asiel Ben Israel, to engage in public relations, political consulting, and lobbying efforts to have sanctions removed by meeting with and attempting to persuade federal and state government officials, including Illinois members of Congress and state legislators, to oppose the sanctions. Ben Israel was sentenced on August 21, 2014 to seven months in prison, one year supervised release, \$100 special assessment and a \$500 fine after pleading guilty to violating the Foreign Agents Registration Act (FARA).

*Drone, Missile and Stealth Technology to China* – On January 9, 2015, Hui Sheng Shen, a.k.a. "Charlie," was sentenced in the District of New Jersey to 49 months in prison and \$200 special assessment. On January 6, 2015, Huan Ling Chang, a.k.a. "Alice," was sentenced to time served



and \$200 special assessment. Previously, on September 22, 2014, Shen and Chang, both Taiwanese nationals, each pleaded guilty to one count of conspiracy to violate the Arms Export Control Act and one count of conspiracy to import illegal drugs. On April 25, 2012, Shen and Chang were charged separately by amended criminal complaints with conspiracy to violate the Arms Export Control Act. The defendants were arrested on February 25, 2012 in New York in connection with a complaint in New Jersey charging them with conspiring to import and importing crystal methamphetamine from Taiwan to the U.S. According to the amended complaint, during negotiations with undercover FBI agents over the meth deal, the defendants asked FBI undercover agents if they could obtain an E-2 Hawkeye reconnaissance aircraft for a customer in China. In subsequent conversations, Shen and Chang allegedly indicated they were also interested in stealth technology for the F-22 fighter jet, as well missile engine technology, and various Unmanned Aerial Vehicles (UAV), including the RQ-11b Raven, a small, hand-launched UAV used by the U.S. Armed Forces. Shen and Chang allegedly stated that their clients were connected to the Chinese government and its intelligence service.

*DuPont Trade Secrets to China / U.S. v. Liew et al.* – On October 1, 2015, in the Northern District of California, Christina Liew was sentenced to three years of probation, fined \$25,000, and ordered to pay more than \$6 million restitution for her role in one of the largest economic espionage cases in history. In May 2015 Christina Liew had pleaded guilty to conspiracy to tamper with evidence.

In March of 2014, a jury had convicted three defendants on all 20 counts, including 18 U.S.C. § 1831 (economic espionage) and 18 U.S.C. § 1832 (theft of trade secrets), which marks the first jury conviction for economic espionage. On July 11, 2014, defendant Walter Liew (Christina's husband) was sentenced to 180 months in prison and ordered to pay \$500,000 restitution. Defendant Robert Maegerle was sentenced in August 2014 to 30 months in prison and \$367,000 restitution. Corporate defendant USAPTI was sentenced to 5 years of probation and fined \$18.9 million. According to a March 2013 superseding indictment, several former employees with more than 70 combined years of service to DuPont were engaged in the sale of trade secrets to Pangang Group, a state-owned enterprise in the People's Republic of China (PRC). Pangang and its subsidiaries sought information on the production of titanium dioxide, a white pigment used to color paper, plastics, and paint. The PRC government had long sought to encourage entry into titanium dioxide industry, a \$12-15 billion annual market of which DuPont has the largest share. Five individuals and five companies were charged in a scheme designed to take DuPont's technology to the PRC and build competing titanium dioxide plants, which would undercut DuPont revenues and business.



**Measure: Percentage of CE Cases Where Classified Information is Safeguarded (according to CIPA requirements) Without Impacting the Judicial Process**

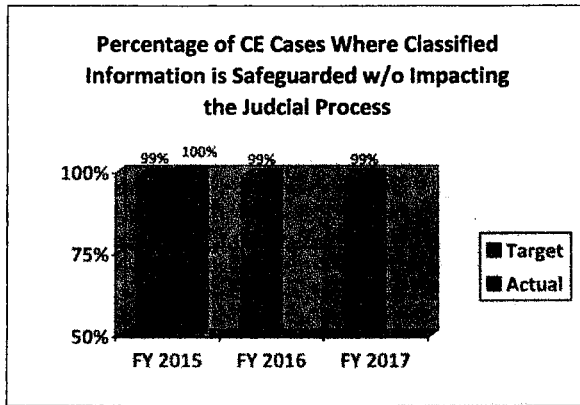
**FY 2015 Target: 99%**

**FY 2015 Actual: 100%**

**FY 2016 Target: 99%**

**FY 2017 Target: 99%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. NSD will support successful prosecutions by providing advice and assistance on the use of classified evidence through the application of the Classified Information Procedures Act (CIPA).



**Data Definition:** Classified information - information that has been determined by the United State Government pursuant to an Executive Order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data as defined by the Atomic Energy Act of 1954.

Safeguarded - that the confidentiality of the classified information is maintained because the Government has proposed redactions, substitutions or summarizations pursuant to CIPA which the Court has accepted.

Impact on the judicial process - that the Court does not exclude certain evidence, dismiss particular counts of the indictment, or dismiss the indictment as a remedy for the Government's insistence that certain classified information not be disclosed at trial.

**Data Collection and Storage:** CES attorneys provide data concerning CIPA matters handled in their cases as well as the status or outcome of the matters, which are then entered into the ACTS database.

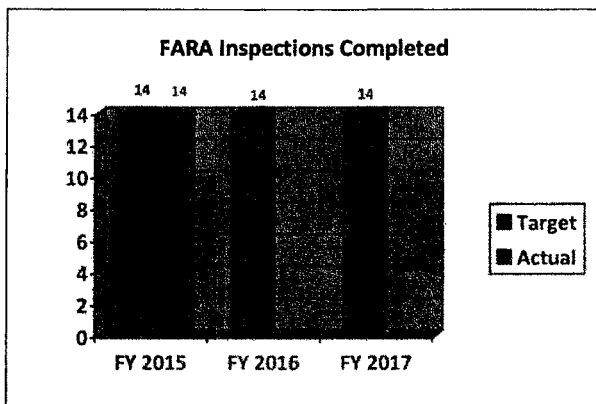
**Data Validation and Verification:** Quarterly review of database records and data updates from CES attorneys in order to ensure that records are current and accurate.

**Data Limitations:** Reporting lags.



**Measure: FARA Inspections Completed****FY 2015 Target: 14****FY 2015 Actual: 14****FY 2016 Target: 14****FY 2017 Target: 14**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. Performing targeted inspections allows the FARA Unit to more effectively enforce compliance among registrants under the Foreign Agents Registration Act of 1938 (FARA).



**Data Definition:** Targeted FARA Inspections are conducted routinely. There can also be additional inspections completed based on potential non-compliance issues. Inspections are just one tool used by the Unit to bring registrants into compliance with FARA.

**Data Collection and Storage:** Inspection reports are prepared by FARA Unit personnel and stored in manual files.

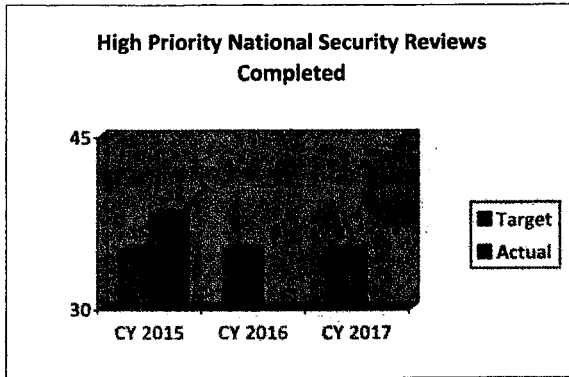
**Data Validation and Verification:** Inspection reports are reviewed by the FARA Unit Chief.

**Data Limitations:** None identified at this time

**Measure: High Priority National Security Reviews Completed****CY 2015 Target: 30****CY 2015 Actual: 38****CY 2016 Target: 35****CY 2017 Target: 35**

**Discussion:** The CY 2017 target is consistent with previous fiscal years. To address potential national security concerns with foreign investment, NSD will continue to work with its partners to perform these high priority reviews.





**Data Definition:** High Priority National Security Reviews include: (1) CFIUS case reviews of transactions in which DOJ is a co-lead agency in CFIUS due to the potential impact on DOJ equities; (2) CFIUS case reviews which result in a mitigation agreement to which DOJ is a signatory; (3) Team Telecom case reviews which result in a mitigation agreement to which DOJ is a signatory; and (4) mitigation monitoring site visits.

**Data Collection and Storage:** Data is collected manually and stored in generic files; however management is reviewing the possibility of utilizing a modified automated tracking system.

**Data Validation and Verification:** Data is validated and verified by management.

**Data Limitations:** Given the expanding nature of the program area – a more centralized data system is desired.

## **Cyber Performance Report**

**Measure: Percentage of Cyber Defendants Whose Cases Were Favorably Resolved**

**FY 2015 Target: 90%**

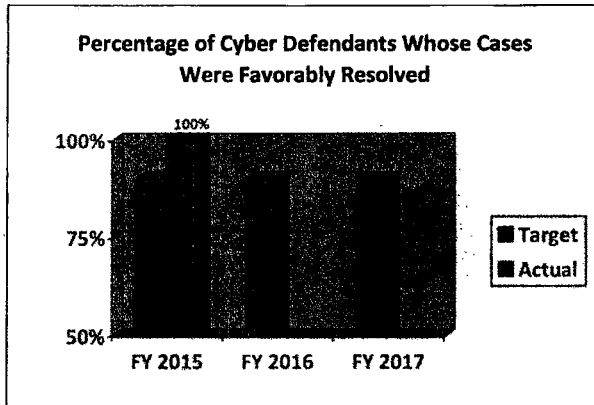
**FY 2015 Actual: 100%**

**FY 2016 Target: 90%**

**FY 2017 Target: 90%**

**Discussion:** The FY 2017 target is consistent with previous fiscal years. Among the strategies that NSD will pursue in this area are: recruit, hire, and train additional cyber-skilled professionals.





**Data Definition:** Defendants whose cases were favorably resolved include those defendants whose cases resulted in court judgments favorable to the government.

**Data Collection and Storage:** Data will be collected manually and stored in internal files.

**Data Validation and Verification:** Data validation and verification is accomplished via quarterly reviews done by CTS and CES.

**Data Limitations:** There are no identified data limitations at this time.

### **Select Recent National Security Cyber Prosecutions**

**Iranian National Pleads Guilty to Facilitating Computer Hacking** – On December 2, 2015, in the District of Vermont, Iranian national Nima Golestaneh pleaded guilty to charges of wire fraud and unauthorized access to computers related to his involvement in the hacking of a Vermont-based engineering consulting and software company. According to the plea agreement, Golestaneh conspired with others to hack network computers in order to steal valuable company software and business information. Golestaneh's role in the conspiracy was to acquire servers in other countries for his co-conspirators to use remotely in order to launch computer intrusions into victim companies, thereby masking their true location and identity. On February 13, 2015, Golestaneh was arraigned during his first appearance on a six-count indictment charging him with four counts of wire fraud, and one substantive and one conspiracy count each of unauthorized theft of information from a protected computer. In December 2013, Golestaneh was arrested on a complaint in Turkey, and indicted later that same month. He was extradited to the United States on February 12, 2015.

**Former Defense Contractor Sentenced for Accessing and Removing Classified Information from Military Computers** – On July 31, 2015, in the Southern District of Florida, Christopher R. Glenn, a former cleared military contractor, was sentenced to 120 months in prison. In January



2015, Glenn had pleaded guilty to a computer intrusion to obtain national defense information, willful retention of national defense information, and conspiracy to commit naturalization fraud. While employed as a computer systems administrator at a U.S. military installation in Honduras, Glenn obtained unauthorized access to a classified Department of Defense (DoD) network and removed classified national defense files from DoD and U.S. Southern Command's Joint Task Force - Bravo, including intelligence reports and military plans. Glenn proceeded to encrypt the files and place them on an Internet-accessible network storage device located in his Honduras residence. Glenn also conspired with his wife to commit naturalization fraud for her benefit by fabricating fraudulent documents and submitting false statements and documents to U.S. Citizenship and Immigration Services.

*Former U.S. Nuclear Regulatory Commission Employee Charged with Attempted Spear-Phishing Cyber-Attack on Department of Energy Computers* -- On May 8, 2015, in the District of Columbia, Charles Harvey Eccleston, a former employee of the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission (NRC), was indicted on four felony offenses in connection with an attempted e-mail "spear-phishing" attack targeting dozens of Department of Energy employee e-mail accounts. According to the indictment, the goal of the attack was to cause damage to the computer network of the Department of Energy through a computer virus that Eccleston believed was being delivered to particular department employees through e-mails; and to extract sensitive, nuclear weapons-related government information that Eccleston believed would be collected by a foreign country. The indictment includes three counts of crimes involving unauthorized access of computers and one count of wire fraud.

*U.S. Charges Chinese National in Hacking Scheme to Steal U.S. Military Technology* -- On March 5, 2015, in the Central District of California (CDCA), Su Bin a.k.a. Stephen Su, a citizen of the People's Republic of China, was charged in a superseding indictment with unauthorized access to computers, violating the Arms Export Control Act, and conspiring to steal trade secrets from U.S. defense contractors. On June 28, 2014, Su had been arrested in Canada based on a complaint filed in the CDCA alleging that he worked with unnamed co-conspirators to steal U.S. military technology. Su subsequently was extradited from Canada. The indictment described how Su worked with two unindicted co-conspirators based in China to infiltrate computer systems and obtain confidential information about military programs, seeking files that had value and in one instance information that could be sold to a state-owned Chinese aviation company. It is alleged that Su and his co-conspirators sought and obtained data related to the C-17 transport aircraft, F-35 fighter jet, F-22 fighter jet, and at least thirty other military technologies or projects.



## **Strategies to Accomplish Outcomes**

NSD's performance goals support the Department's Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law. NSD takes a strategic, threat-driven, and all-tools approach to disrupting national security threats. Strategies for accomplishing outcomes within each of the 4 Strategic Objectives are detailed below:

### Strategic Objective 1.1 - Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats

NSD will continue to ensure that the IC is able to make efficient use of foreign intelligence information collection authorities, particularly FISA by representing the U.S. before the FISC. This tool has been critical in protecting against terrorism, espionage, and other national security threats. NSD will also continue to expand its oversight operations within the IC and develop and implement new oversight programs, promote ongoing communication and cooperation with the IC, and advise partners on the use of legal authorities.

### Strategic Objective 1.2 - Prosecute those involved in terrorist acts

NSD will promote and oversee a coordinated national counterterrorism enforcement program, through close collaboration with Department leadership, the National Security Branch of the FBI, the IC, and the 94 USAOs; develop national strategies for combating emerging and evolving terrorism threats, including the threat of cyber-based terrorism; consult, advise, and collaborate with prosecutors nationwide on international and domestic terrorism investigations, prosecutions, and appeals, including the use of classified evidence through the application of the Classified Information Procedures Act (CIPA); share information with and provide advice to international prosecutors, agents, and investigating magistrates to assist in addressing international threat information and litigation initiatives; and manage DOJ's work on counter-terrorist financing programs, including supporting the process for designating Foreign Terrorist Organizations and Specially Designated Global Terrorists as well as staffing U.S. Government efforts on the Financial Action Task Force.

### Strategic Objective 1.3 - Investigate and prosecute espionage activity against the U.S., strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threats

Among the strategies that the National Security Division will pursue in this area are: supporting and supervising the investigation and prosecution of espionage and related cases through coordinated efforts and close collaboration with Department leadership, the FBI, the IC, and the 94 USAOs; developing national strategies for combating the emerging and evolving threat of cyber-based espionage and state-sponsored cyber intrusions; assisting in and overseeing the



expansion of investigations and prosecutions into the unlawful export of military and strategic commodities and technology, and violations of U.S. economic sanctions; coordinating and providing advice in connection with cases involving the unauthorized disclosure of classified information and supporting resulting prosecutions by providing advice and assistance with the application of Classified Information Procedures Act; and enforcing the Foreign Agents Registration Act of 1938 and related disclosure statutes.

**Strategic Objective 1.4 - Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors**

NSD will recruit, hire, and train additional cyber-skilled professionals; prioritize disruption of cyber threats to the national security through the use of the U.S. Government's full range of tools, both law enforcement and intelligence; promote legislative priorities that adequately safeguard national security interests; and invest in information technology that will address cyber vulnerabilities while also keeping the Department at the cutting edge of technology.

**B. Priority Goals (Not Applicable)**

NSD is assisting with DOJ's efforts to meet its FY 2016 – FY 2017 Cyber Priority Goals through the disruption of cyber threat actors and the dismantlement of their networks. Specifically, NSD tracks data that relates to the following one indicator and two milestones.

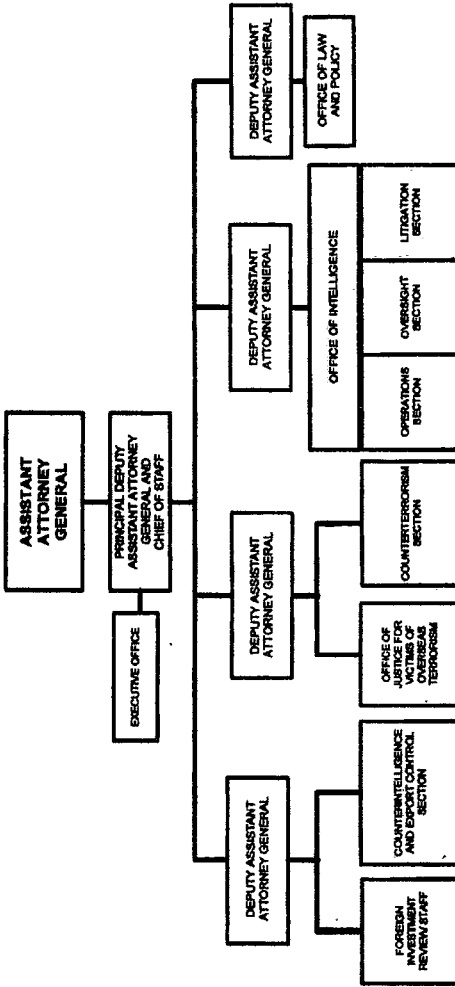
**Indicator:** Number of actions taken in support of disrupting or dismantling national security actors and/or networks.

**Milestone:** Support non-prosecution disruption tools with FBI investigations and DOJ legal support and information sharing, as appropriate (e.g., Treasury sanctions, Commerce designations, and diplomatic engagements, deterrence/avoidance). In FY 2016 and FY2017, NSD and the Criminal Division (CRM) will promote the use of these alternate tools to USAOs and increase cross-government communication and collaboration through interagency working groups and training efforts.

**Milestone:** Increase outreach efforts to FBI field offices, USAOs, victims, and targeted private and public sector entities in order to raise criminal and national security cyber threat awareness, build partnerships, and promote enhanced network defenses in order to disrupt and deter national security and criminal cyber threats. In FY2016 and FY2017, CRM and NSD will develop and disseminate investigative guidance, success stories and lessons learned to increase victim willingness to cooperate in investigations and disruptions.



NATIONAL SECURITY DIVISION



Approved by:  Date: Jan. 7, 2015  
Eric H. Holder, Jr.  
Attorney General



**Summary of Requirements**  
National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted <sup>1/</sup>	383	354	93,000
Total 2015 Enacted	383	354	93,000
2016 Enacted	393	359	95,000
Base Adjustments			
Pay and Benefits	0	5	1,338
Domestic Rent and Facilities	0	0	999
Total Base Adjustments	0	5	2,337
Total Technical and Base Adjustments	0	5	2,337
2017 Current Services	393	364	97,337
2017 Total Request	393	364	97,337
2016 - 2017 Total Change	0	5	2,337

<sup>1/</sup> FY 2015 FTE is actual



**Summary of Requirements**  
National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
National Security	383	354	93,000	393	359	95,000	0	5	2,337	393	364	97,337
<b>Total Direct</b>	<b>383</b>	<b>354</b>	<b>93,000</b>	<b>393</b>	<b>359</b>	<b>95,000</b>	<b>0</b>	<b>5</b>	<b>2,337</b>	<b>393</b>	<b>364</b>	<b>97,337</b>
Balance Rescission			0			0						0
<b>Total Direct with Rescission</b>												
Reimbursable FTE												
<b>Total Direct and Reimb. FTE</b>		<b>354</b>			<b>359</b>			<b>5</b>	<b>2,337</b>		<b>364</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>354</b>			<b>359</b>			<b>5</b>			<b>364</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
National Security	0	0	0	0	0	0	393	364	97,337
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>393</b>	<b>364</b>	<b>97,337</b>
Balance Rescission									
<b>Total Direct with Rescission</b>									
Reimbursable FTE									0
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>0</b>	<b>97,337</b>
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>364</b>	



Resources by Department of Justice Strategic Goal and Objective  
National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2016 Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct FTE	Direct Amount	Reimb Amount	Direct FTE	Direct Amount	Reimb Amount	Direct FTE	Direct Amount	Reimb Amount	Direct FTE	Direct Amount	Reimb Amount	Direct FTE	Direct Amount	Reimb Amount
Goal 1 Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law																		
1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.	207	60,087		198	47,177		200	48,384								200	48,384	
1.2 Prosecute those involved in terrorist acts																		
1.3 Investigate and prosecute espionage activity against the United States, strengthen partnerships with potential targets of intelligence intrusions, and proactively prevent insider threats	87	18,235		90	22,225		90	22,535									90	22,535
	41	11,969		48	22,125		49	22,434									49	22,434
1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors.	19	2,689		22	3,473		25	3,984									25	3,984
Subtotal, Goal 1	354	93,000		359	95,000		364	97,337									364	97,337
TOTAL	354	93,000		359	95,000		364	97,337									364	97,337



**Justifications for Technical and Base Adjustments**  
 National Security Division  
 Salaries and Expenses  
 (Dollars in Thousands)

E. Justifications for Technical and Base Adjustments

	Direct Pos	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 2017 Pay Raise - 1.6% This request provides for a proposed 1.6 percent pay raise to be effective in January 2017. The amount requested, \$832,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$455,040 for pay and \$376,960 for benefits.)	3	0	832
2 Annualization of 2016 Pay Raise The pay annualization represents first quarter amounts (October through December) of 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$201,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$144,720 for pay and \$56,280 for benefits.)	0	0	201
3 Annualization of 2016 Positions This provides for the annualization of 10 new positions in 2016. Annualization of new positions extends up to 2 years to provide entry level funding in the first year, with a 1 or 2-year progression to a journeyman level.	0	5	853
4 2016-17 Compensation Plan The amount requested represents the compensation for 2016-17. The amount requested \$11,874 by 280 compensable days is -3472.	3	0	-472
5 Employees Compensation Fund The \$3,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	3	0	3
6 Health Insurance Effective January 2017, NSD's contribution to Federal employees' health insurance increases by 3.1 percent. Applied against the 2016 estimate of \$2,885, the additional amount required is \$89,000.	3	0	89
7 Retirement Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Labor Actuarial data, the amount requested for the past 5 years will convert from CSRS to FERS at a rate of 0.6 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$32,000 is necessary to meet our increased retirement obligations as a result of this conversion.	3	0	32
<b>Subtotal, Pay and Benefits</b>	<b>6</b>	<b>5</b>	<b>1,338</b>
<b>Domestic Rent and Facilities</b>			
1 GSA Rent GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$315,000 is required to meet our commitment to GSA. The costs associated with GSA rent were included in the FY 2017 budget request, which was the latest inventory of costs included in the FY 2017 budget request. The building currently occupied by the Department of Justice components, as well as the costs of new space to be occupied.	3	0	315
2 Guard Service This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$21,000 is required to meet these commitments.	3	0	21
3 Moves - FY 2017 GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	3	0	963
<b>Subtotal, Domestic Rent and Facilities</b>	<b>6</b>	<b>0</b>	<b>999</b>
<b>TOTAL DIRECT TECHNICAL AND BASE ADJUSTMENTS</b>	<b>0</b>	<b>5</b>	<b>2,337</b>



F. Crosswalk of 2015 Availability

**Crosswalk of 2015 Availability**  
National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover		Recoveries/Refunds		FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Amount		Direct Pos.	Actual FTE	Amount
National Security	383	354	93,000		0	0	6,000	9,575	1,860		383	354	110,435
<b>Total Direct</b>	<b>383</b>	<b>354</b>	<b>93,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6,000</b>	<b>9,575</b>	<b>1,860</b>		<b>383</b>	<b>354</b>	<b>110,435</b>
Balance Rescission			0			0	0	0	0				0
Total Direct with Rescission													
Reimbursable FTE		0	93,000				6,000	9,575	1,860			0	110,435
Total Direct and Reimb. FTE		354			0							354	
Other FTE:													
LEAP FTE		0			0							0	
Overtime		0			0							0	
<b>Grand Total FTE</b>		<b>354</b>			<b>0</b>							<b>354</b>	

Transfer/Carryover/Recovery: FY 2015 funds totalling \$17,435,000 represents a \$6,000,000 transfer and a \$9,575,000 carryover for IT related projects and \$1,860,000 in recoveries.



**Crosswalk of 2016 Availability**  
National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
National Security	393	359	95,000		0	0	9,090	0	393	359	104,090
<b>Total Direct</b>	<b>393</b>	<b>359</b>	<b>95,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9,090</b>	<b>0</b>	<b>393</b>	<b>359</b>	<b>104,090</b>
Balance Rescission											
Total Direct with Rescission											
Reimbursable FTE		0	95,000			0	9,090	0			104,090
Total Direct and Reimb. FTE		359			0					359	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>359</b>			<b>0</b>					<b>359</b>	

**Carryover:** The \$9,090,000 carryover is for IT related projects.



### Detail of Permanent Positions by Category

National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2015 Enacted		FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	Program Increases	ATBs	
Security Specialists (080)	4	0	4	0	0	0	0
Intelligence Series (132)	12	0	13	0	0	0	0
Clerical and Office Services (0300-0399)	81	0	84	0	0	0	0
Accounting and Budget (500-599)	8	0	8	0	0	0	0
Paralegals / Other Law (900-998)	14	0	15	0	0	0	0
Attorneys (905)	249	0	254	0	0	0	0
Business & Industry (1100-1199)	1	0	1	0	0	0	0
Information Technology Mgmt. (2210-2299)	14	0	14	0	0	0	0
<b>Total</b>	<b>383</b>	<b>0</b>	<b>393</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Headquarters Washington D.C.	382	0	390	0	0	0	0
US Fields	1	0	3	0	0	0	0
Foreign Field	0	0	0	0	0	0	0
<b>Total</b>	<b>383</b>	<b>0</b>	<b>393</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>



# Summary of Requirements by Object Class

National Security Division  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	354	45,207	359	46,873	364	47,709	5	836
11.3 - Other than full-time permanent	0	1,381	0	1,025	0	1,025	0	0
11.5 - Other personnel compensation	0	214	0	57	0	57	0	0
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	113	0	0	0	0	0	0
<b>Total</b>	<b>354</b>	<b>46,915</b>	<b>359</b>	<b>47,955</b>	<b>364</b>	<b>48,791</b>	<b>5</b>	<b>836</b>
<b>Other Object Classes</b>								
21.1 - Civilian personnel benefits		13,567		14,386		14,564	0	178
21.0 - Travel and transportation of persons		1,272		1,885		1,852	0	-233
22.0 - Transportation of things		46		77		108	0	31
23.1 - Rental payments to GSA		10,031		10,404		11,382	0	978
23.2 - Rental payments to others		217		237		237	0	0
23.3 - Communications, utilities, and miscellaneous charges		4,092		4,217		4,361	0	144
24.0 - Printing and reproduction		0		17		17	0	0
25.1 - Advisory and assistance services		2,333		2,480		1,833	0	-647
25.2 - Other services from non-federal sources		1,794		2,495		2,119	0	-376
25.3 - Other goods and services from federal sources		14,049		16,150		10,464	0	-5,686
25.4 - Operation and maintenance of facilities		40		0		0	0	0
25.6 - Medical care		37		38		38	0	0
25.7 - Operation and maintenance of equipment		105		226		226	0	0
28.0 - Supplies and materials		284		497		458	0	-39
31.0 - Equipment		2,040		3,026		1,087	0	-1,939
42.0 - Insurance claims and indemnities		35		0		0	0	0
<b>Total Obligations</b>		<b>96,857</b>		<b>104,090</b>		<b>97,337</b>	<b>0</b>	<b>-6,753</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-9,575		-9,090		0	0	9,090
Transfers/Reprogramming		-6,000		0		0	0	0
Recoveries/Refunds		-1,860		0		0	0	0
Balance Recission		0		0		0	0	0
Unobligated End-of-Year, Available		9,090		0		0	0	0
Unobligated End-of-Year, Expiring		4,488		0		0	0	0
<b>Total Direct Requirements</b>		<b>93,000</b>		<b>95,000</b>		<b>97,337</b>		<b>2,337</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0		0	0



## General Legal Activities

### Table of Contents

<b>I. Overview</b>	<b>1</b>
<b>II. Summary of Program Changes</b>	<b>1</b>
<b>III. Appropriations Language and Analysis of Appropriations Language</b>	<b>2</b>
<b>A. Appropriations Language</b>	<b>2</b>
<b>B. Analysis of Appropriations Language</b>	<b>3</b>
<b>IV. Program Activity Justification</b>	<b>*</b>
<b>V. Program Increases by Item</b>	<b>*</b>
<b>VI. Exhibits</b>	
<b>A. Organizational Chart.....</b>	<b>*</b>
<b>B. Summary of Requirements .....</b>	<b>B</b>
<b>C. FY 2017 Program Changes by Decision Unit.....</b>	<b>*</b>
<b>D. Resources by DOJ Strategic Goal/Objective.....</b>	<b>*</b>
<b>E. Justification for Technical and Base Adjustments .....</b>	<b>*</b>
<b>F. Crosswalk of 2015 Availability .....</b>	<b>F</b>
<b>G. Crosswalk of 2016 Availability .....</b>	<b>G</b>
<b>H. Summary of Reimbursable Resources .....</b>	<b>*</b>
<b>I. Detail of Permanent Positions by Category .....</b>	<b>I</b>
<b>J. Financial Analysis of Program Changes.....</b>	<b>*</b>
<b>K. Summary of Requirements by Object Class .....</b>	<b>K</b>
<b>L. Status of Congressionally Requested Studies, Reports, and Evaluations .....</b>	<b>*</b>

\* Please refer to individual GLA component exhibits



## I. Overview

The General Legal Activities (GLA) appropriation is requesting a total of 4,366 permanent positions, 4,625 FTE (including 814 FTE) and \$957,423,000. This resource level represents program increases of 218 positions, 112 FTE, and \$28,687,000, outlined below. The FY 2017 request also includes net adjustments-to-base (ATBs) of 9 FTE and \$35,736,000. Specific details about individual programs are discussed in the budget justifications of the respective General Legal Activities components.

## II. Summary of Program Changes

### Criminal Division

**Mutual Legal Assistance Treaty (MLAT) Reform:** 97 positions, 49 FTE and \$10.036 million  
**International Law Enforcement and Justice Development:** 61 positions, 31 FTE and \$4.964 million

### Civil Division

**Immigration Enforcement:** 7 positions, 4 FTE and \$.729 million  
**Elder Justice:** 2 positions, 1 FTE and \$.558 million  
**Funding for E-Records:** \$1.6 million

### Environment & Natural Resources Division

**Enhancing the Safety of America's Workforce:** 6 positions, 3 FTE and \$1 million  
**Ensuring the Welfare of Animals in the United States:** 3 positions, 2 FTE and \$1 million  
**Improving Environmental Enforcement in Indian Country:** 4 positions, 2 FTE and \$1.5 million

### Civil Rights Division

**Policing and Criminal Justice:** 24 positions, 12 FTE and \$2.7 million  
**Protecting the Rights of Servicemembers:** 5 positions, 3 FTE and \$.587 million  
**Protecting the Rights of People with Disabilities:** 7 positions, 4 FTE and \$.983 million

### INTERPOL Washington

**INTERPOL Washington Operations:** 2 positions, 1 FTE and \$1.430 million  
**INTERPOL Washington IT Expansion Initiative:** \$1.6 million



### III. Appropriations Language and Analysis of Appropriations Language

#### A. Appropriations Language

New language proposed for FY 2017 is *italicized and underlined*.

##### Salaries and Expenses, General Legal Activities

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, [\$893,000,000] \$957,423,000, of which not to exceed \$20,000,000 for litigation support contracts shall remain available until expended: Provided, That of the amount provided for INTERPOL Washington dues payments, not to exceed \$685,000 shall remain available until expended: Provided further, That of the total amount appropriated, not to exceed \$9,000 shall be available to INTERPOL Washington for official reception and representation expenses *and not to exceed \$9,000 shall be available to the Criminal Division for official reception and representation expenses*: Provided further, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to "Salaries and Expenses, General Legal Activities" from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the previous proviso shall be treated as a reprogramming under section [505] 504 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That of the amount appropriated, such sums as may be necessary shall be available to the Civil Rights Division for salaries and expenses associated with the election monitoring program under [section 8 of] the Voting Rights Act of 1965 (52 U.S.C. [10305] 10301 et seq.) and to reimburse the Office of Personnel Management for such salaries and expenses: Provided further, That of the amounts provided under this heading for the election monitoring program, \$3,390,000 shall remain available until expended.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed [\$9,358,000] \$11,970,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.



## **B. Analysis of Appropriations Language**

The FY 2017 request proposes several changes in the General Legal Activities appropriations language. First, the Criminal Division requests \$9,000 in representational fund authority for FY 2017 for the use of the three Criminal Division offices that represent the Department of Justice on international matters: the Office of International Affairs (OIA); the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT); and the International Criminal Investigative Training Assistance Program (ICITAP). On behalf of the Department of Justice, these offices deal with foreign counterparts on a daily basis, both in Washington and in their overseas posts. Yet these offices are not funded to provide, or to reciprocate to, even the most basic hospitalities that are integral to the conduct of international relations.

The Criminal Division's inability to fund hospitality measures undermines the fundamental objective of building overseas partnerships to fight terrorism and transnational crime. Because our foreign counterparts almost universally are funded to provide such hospitality, they logically assume that the United States must likewise provide representational funds to DOJ and may conclude that the Criminal Division's inability to fund gestures of hospitality means that we do not highly value the relationship. Accordingly, in order to build the relationships key to fighting terrorism and transnational crime, the Criminal Division's offices of OIA, OPDAT, and ICITAP seek this authority to advance the building of foreign relationships that are key to U.S. security.

Second, the Civil Rights Division directs and manages federal enforcement of the provisions of the Voting Rights Act, including the election monitoring provisions of the Act. The Division reimburses the Office of Personnel Management for salaries and expenses that it incurs for federal observers for elections. The language change ensures that the appropriations language fully covers the election monitoring program, which operates under numerous provisions of the Voting Rights Act—not just Section 8. Travel is the single biggest cost associated with DOJ's own election monitoring work.

Finally, the Vaccine Injury Compensation Program caseload has doubled over FY 2009 levels and is projected to continue increasing through FY 2017 and beyond. To manage this drastic increase in case activity, Civil is requesting an increase of \$2.61 million for total program funding of \$11.97 million to fund 12 additional positions. If this request is not funded, significant delays in the adjudication process will occur, causing delays in compensation to meritorious claimants, which will undermine this innovative compensation system that Congress designed.

## **IV. Program Activity Justification\***

### **V. Program Increases by Item\***

\*Please refer to individual GLA component exhibits



B. Sum: '1 of Requirements

**Summary of Requirements**  
General Legal Activities  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request	
	Direct Positions	FTE
		Amount
2016 Enacted 1/		
2016 Unobligated Balance Recession	4,126	885,000
Total 2016 Enacted (with Recession)	4,126	885,000
2016 Enacted	4,148	893,000
Base Adjustments		
Pay and Benefits	0	5,408
Commod. Rent and Facilities	0	30,516
Over Adjustments	0	0
Tuition Expenses	0	0
Foreign Expenses	0	488
Total Base Adjustments	0	35,736
Total Recession and Base Adjustments	4,148	920,736
2017 Current Services		
Program Changes		
Criminal Division	159	15,000
Civil Division	8	3,887
Environment & Natural Resources Division	13	3,900
Civil Rights Division	36	4,270
INTERPOL Washington	2	3,650
Subtotal, Increases	218	28,657
Total Program Changes	218	28,657
2017 Total Request	4,366	957,423
2016 - 2017 Total Change	218	64,423

1/ FY 2016 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
General Legal Activities  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2015 Enacted			2016 Enacted			2017 Technical and Base Adjustments			2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Estim. FTE	Amount
Conduct of Supreme Court proceedings	51	47	11,878	55	56	11,885	43	0	0	55	56	11,828
Criminal matters	539	447	108,874	639	534	106,979	0	0	0	639	534	114,135
Civil matters	750	624	178,042	768	683	181,745	0	0	0	768	682	183,712
Claims, customs and general civil matters	1,325	1,188	291,454	1,325	1,189	292,214	0	0	0	1,325	1,189	308,704
Land, natural resources and Indian matters	537	540	110,077	537	528	110,512	0	0	0	537	528	119,061
Legal opinions	33	25	7,838	33	27	7,989	0	0	0	33	27	8,015
Civil rights matters	714	565	147,239	714	606	148,239	0	0	0	714	606	151,351
INTERPOL Washington	77	62	32,000	77	69	33,437	0	0	0	77	69	33,830
<b>Total Direct</b>	<b>4,126</b>	<b>3,478</b>	<b>885,000</b>	<b>4,148</b>	<b>3,690</b>	<b>893,000</b>	<b>0</b>	<b>9</b>	<b>35,736</b>	<b>4,148</b>	<b>3,699</b>	<b>928,736</b>
Unobligated Balance Rescission			-10,000			0			0			0
Total Direct with Rescission			875,000			893,000			0			928,736
Reimbursable FTE		563			793			23			816	
Total Direct and Reimb. FTE		4,041			4,483			32			4,515	
Other FTE:		0			0			0			0	
LEAP		7			7			0			0	
Overtime		7			7			0			0	
<b>Grand Total FTE</b>		<b>4,048</b>			<b>4,490</b>			<b>32</b>			<b>4,522</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Estim. FTE	Amount
Conduct of Supreme Court proceedings	0	0	0	0	0	0	55	56	11,928
Criminal matters	0	0	0	0	0	0	639	534	114,135
Civil matters	159	80	15,000	0	0	0	926	772	198,712
Claims, customs and general civil matters	9	5	2,897	0	0	0	1,334	1,194	309,591
Land, natural resources and Indian matters	13	7	3,500	0	0	0	550	533	122,561
Legal opinions	0	0	0	0	0	0	33	27	8,016
Civil rights matters	36	19	4,270	0	0	0	750	625	155,621
INTERPOL Washington	2	1	3,030	0	0	0	79	70	36,860
<b>Total Direct</b>	<b>218</b>	<b>112</b>	<b>28,887</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,366</b>	<b>3,811</b>	<b>957,423</b>
Balance Rescission			0			0			0
Total Direct with Rescission			28,887			0			957,423
Reimbursable FTE		15			-17			814	
Total Direct and Reimb. FTE		127			-17			4,625	
Other FTE:		0			0			0	
LEAP		0			0			0	
Overtime		7			7			7	
<b>Grand Total FTE</b>		<b>127</b>			<b>-17</b>			<b>4,632</b>	



**Crosswalk of 2015 Availability**  
**General Legal Activities**  
**Salaries and Expenses**  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers/ Reallocations			Carryover	Recission	Recoveries	2015 Availability	
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount				Direct Pos.	Actual FTE
Conduct of Supreme Court proceedings	91	47	11,878	0	0	0	0	0	0	51	47
Criminal matters	189	447	108,072	0	0	0	0	0	0	639	447
Criminal matters	759	624	178,042	84	0	13,434	3,255	1,181	149	814	624
Claims, customs and general civil matters	1,325	1,168	291,454	0	0	125	10,578	3,847	314	1,325	1,168
Land, natural resources and Indian matters	537	540	110,077	0	0	2,448	2,391	142	0	537	540
Legal opinions	33	25	7,836	0	0	0	0	0	0	33	25
Civil rights matters	714	565	147,239	0	0	1,155	751	1,172	565	714	565
INTERPOL, Washington	77	62	32,000	0	0	7	0	0	0	77	62
Automated Litigation Support	0	0	0	0	0	1,000	4,415	3,165	0	0	0
<b>Total Direct</b>	<b>4,138</b>	<b>3,478</b>	<b>885,000</b>	<b>64</b>	<b>0</b>	<b>18,190</b>	<b>22,751</b>	<b>-10,000</b>	<b>988</b>	<b>4,199</b>	<b>3,478</b>
Balance Recission			0			0					
Total Direct with Recission			885,000			0			988		
Reimbursable FTE		563				0					563
Total Direct and Reimb. FTE		4,041				0					4,041
Other FTE		0				0					0
LEAP		0				0					0
Overtime		0				0					0
<b>Grand Total, FTE</b>		<b>4,041</b>			<b>0</b>						<b>4,041</b>

**Reprogramming/Transfers**

Total transfers of \$18.2 million reflect a transfer of \$13.5 million from the FEW appropriation to Criminal Division for their Mutual Legal Assistance Treaty (MLAT) program, transfers in of \$5.05 million from GLA's prior years' unobligated balances, the transfer back to GLA's 2011 account of \$50 thousand, and the transfer out of \$320 thousand for the JST program. Funding of \$4 million was reallocated from GLA's ALS account to the Office of Solicitor General (300 million) Environment (\$2.5 million), and Civil Rights Divisions (\$1.2 million) ALS accounts.

**Carryover:**

Funds were carried over into FY 2015 from GLA's 2014 no-year account.

**Recission:**

A \$10 million unobligated balance recission was spread among the GLA components' carryover funding.

**Recoveries:**

Direct recoveries from GLA's no-year ALS accounts total \$988 thousand.



**Crosswalk of 2016 Availability**  
General Legal Activities  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/ Reallocations			Carryover			Recoveries			2016 Availability		
	Direct Pos.	Estim.	FTE	Amount	Amount	Amount	Direct Pos.	Estim.	FTE	Amount	Amount	Amount	Direct Pos.	Estim.	FTE
Conduct of Supreme Court proceedings	55	59		11,885		0	0	0		0	0	0	55	59	11,885
General tax matters	639	534		108,979		0	0	0		0	0	0	639	534	107,193
Criminal matters	769	683		151,745		0	64	39		13,483	0	0	832	721	195,208
Claims, customs and general civil matters	1,325	1,189		282,714		0	0	0		330	0	0	1,325	1,189	292,544
Land, natural resources and Indian matters	537	526		110,512		0	0	0		3	0	0	537	526	110,515
Legal opinions	59	27		7,995		0	0	0		0	0	0	59	27	7,999
Civil rights matters	714	605		145,239		0	0	0		0	0	0	714	605	145,241
INTERPOL, Washington	77	66		33,437		0	0	0		0	0	0	77	66	33,437
Automated Litigation Support	0	0		0		0	0	0		0	0	0	0	0	0
Total Direct	4,148	3,580		893,000		0	64	39		20,142	0	0	4,212	3,728	913,142
Balance Reversion				0		0									
Total Direct with Reversion				893,000		0				20,142	0	0			913,142
Reimbursable FTE		793												793	
Total Direct and Reimb. FTE		4,483							39					4,521	
Other FTE:															
LEAP		0							0					0	
Overtime		7							0					0	
Grand Total FTE		4,490							39					4,528	

Carryover:  
Funds were carried over into FY 2016 from GJA's 2015 no-year account.



**Detail of Permanent Positions by Category**  
General Legal Activities  
Salaries and Expenses  
(Dollars in Thousands)

Category	2015 Enacted			2016 Enacted			2017 Request		
	Direct Pos.	Reimb. Pos.		Direct Pos.	Reimb. Pos.		Program Increases	Total Direct Pos.	Total Reimb. Pos.
Miscellaneous Operations (010-099)	8	0		8	0		0	8	0
Security Specialists (060)	12	0		12	0		0	12	0
Economists (110)	0	0		0	0		0	0	0
Intelligence Series (132)	1	0		1	0		0	1	0
Chief Rights Analyst (185)	19	0		19	5		0	19	5
Personnel Management (200-299)	43	2		43	2		0	43	2
Clerical and Office Services (300-399)	699	110		704	112		85	790	112
Accounting and Budget (500-599)	34	37		34	37		12	46	37
Architect (600)	16	0		16	0		0	16	0
Attorneys (800)	2,574	445		2,589	690		102	2,691	596
Paralegals / Other Law (800-999)	559	69		569	85		14	583	67
Information & Arts (1000-1099)	8	2		8	2		0	8	2
Business & Industry (1100-1199)	0	0		0	0		0	0	0
Forensic/Physical Sciences (1300-1399)	5	0		5	0		0	5	0
Library (1400-1499)	3	0		3	0		0	3	0
Mathematical Statistics (1523)	2	0		2	0		0	2	0
Equipment/Facilities Service (1900-1999)	0	0		0	0		0	0	0
Education/Training (1700-1799)	6	0		6	0		0	6	0
Inspection, Investigation Analysis (1801)	0	0		0	0		0	0	0
Travel Services (2101)	67	4		71	4		0	73	4
Information Technology Mgmt. (2210)	71	17		71	22		0	73	22
Other									
<b>Total</b>	<b>4,126</b>	<b>881</b>		<b>4,148</b>	<b>843</b>		<b>0</b>	<b>4,366</b>	<b>861</b>
Headquarters (Washington, D.C.)	3,965	532		4,007	530		0	4,231	538
U.S. Field	126	16		126	16		0	126	16
Foreign Field	15	133		15	197		0	19	197
<b>Total</b>	<b>4,126</b>	<b>681</b>		<b>4,148</b>	<b>843</b>		<b>0</b>	<b>4,366</b>	<b>891</b>

Footnotes:



K. Summary of Requirements by Object Class

Summary of Requirements by Object Class  
General Legal Activities  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2016 Enacted		FY 2016 Enacted 1/		FY 2017 Request		Increase/Decrease	
	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 Full-Time Permanent	3,355	385,250	3,543	408,435	3,564	418,791	121	10,356
11.3 Other than Full-Time Permanent	123	43,197	147	44,937	147	41,637	0	-2,900
11.5 Other Personnel Compensation	0	0	0	0	0	6,822	0	6,822
Overtime	0	0	0	0	0	219	0	219
Other Compensation	0	2,670	0	2,846	0	2,846	0	0
11.8 Special Personnel Services Payments	0	0	0	4,215	0	4,215	0	0
Total	3,478	437,895	3,690	463,710	3,811	471,485	121	7,765
Other Object Classes								
12.0 Personnel Benefits		130,779		139,840		142,845		2,803
13.0 Benefits for former personnel		83		78		84		6
21.0 Travel and Transportation of Persons		16,191		18,252		18,411		159
22.0 Transportation of Things		3,103		3,652		3,768		114
23.1 Rental Payments to GSA		102,985		109,893		114,772		5,079
23.2 Rental Payments to Others		3,266		3,727		3,961		234
23.3 Communications, Utilities, and Miscellaneous Charges		14,302		14,295		14,962		667
24.0 Printing and Reproduction		1,568		1,629		1,646		17
25.1 Advisory and Assistance Services		19,430		15,982		17,415		1,433
25.2 Other Services from Non-Federal Sources		97,797		74,216		84,984		10,668
25.3 Other Goods and Services from Federal Sources		37,197		40,619		44,325		3,706
25.4 Operation and Maintenance of Facilities		2,341		1,866		9,295		7,529
25.5 Research and Development Contracts		128		122		0		-122
25.6 Medical Care		249		287		393		96
25.7 Operation and Maintenance of Equipment		456		537		534		-3
26.0 Supplies and Materials		3,243		4,431		3,503		-928
31.0 Equipment		10,526		5,856		8,701		2,845
32.0 Land and Structures		0		0		1,988		1,988
41.0 Grants, Subsidies, and Contributions		11,274		14,453		14,589		135
42.0 Insurance Claims and Indemnities		279		97		97		0
Total Obligations		893,093		913,142		957,423		44,281
Subtotal - Unobligated Balance, Start-of-Year		-42		-20,142		0		20,142
Subtotal - Transfers/Reprogramming/Reallocations		-15,180		0		0		0
Subtotal - Recoveries/Refunds		998		0		0		0
Add - Recession		10,000		0		0		0
Add - Unobligated End-of-Year, Available		20,142		0		0		0
Add - Unobligated End-of-Year, Expired		3,584		0		0		0
Total Direct Requirements	0	893,000	0	893,000	0	957,423	0	64,423
Reimbursable FTE								
Full-Time Permanent	563		793		814		21	

1/ Direct FTE and obligations do not include Health Care Fraud resources.



***FY 2017  
PERFORMANCE  
BUDGET***

*Office of the Solicitor General  
Congressional Submission*





## Contents

	Page No.
<b>I. Overview.....</b>	2
<b>II. Summary of Program Changes.....</b>	N/A
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	N/A
<b>IV. Program Activity Justification.....</b>	5
A. Federal Appellate Activity	
1. Program Description	
2. Performance Tables	
3. Performance, Resources, and Strategies	
<b>V. Program Increase by Item.....</b>	N/A
<b>VI. Program Offsets by Item.....</b>	N/A
<b>VII. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	
M. Senior Executive Service Reporting (applies only to DEA and FBI)	



## I. Overview for the Office of the Solicitor General

### Introduction

In FY 2017, the Office of the Solicitor General (OSG) requests a total of \$11,928,000 that funds 55 positions, including 23 attorney positions, and 56 FTE to meet its mission.

### Mission/Background

The mission of OSG is to conduct all litigation on behalf of the United States and its agencies in the Supreme Court of the United States, to approve decisions to appeal and seek further review in cases involving the United States in the lower federal courts, and to supervise the handling of litigation in the federal appellate courts.

The original Statutory Authorization Act of June 22, 1870, states: “There shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General.” As stated in 28 CFR 0.20, the general functions of the Office are as follows: (1) conducting or assigning and supervising all Supreme Court cases, including appeals, petitions for and in opposition to *certiorari*, briefs and arguments; (2) determining whether, and to what extent, appeals will be taken by the government to all appellate courts (including petitions for rehearing *en banc* and petitions to such courts for the issuance of extraordinary writs); (3) determining whether a brief *amicus curiae* will be filed by the government, or whether the government will intervene, in any appellate court, or in any trial court in which the constitutionality of an Act of Congress is challenged; and (4) assisting the Attorney General and the Deputy Attorney General in the development of broad Department program policy.

OSG is headed by the Solicitor General, who is appointed by the President and confirmed by the Senate. Within the attorney staff, there are 23 attorney positions. The attorneys prepare oral arguments, Supreme Court briefs, and other related legal materials. The 32 support staffers are organized into three sections which include Administration, Case Management, and Research and Publication.

### Challenges

OSG’s overall mission and strategic objectives will essentially remain the same in FY 2016 and FY 2017. However, OSG faces a set of new expectations and additional responsibilities in response to the evolving case load in the U.S. Supreme Court and the federal courts of appeals.

The Solicitor General’s docket, which mirrors the docket of the Supreme Court and the federal courts of appeals, covers a range of issues that are critical to our Nation’s viability and economy. Many of the cases require careful attention and coordination within the government, as well as a difficult assessment of how to apply existing statutory schemes.

In recent years, patent cases and other cases defining the scope of intellectual property protection have been at the heart of the Supreme Court’s caseload. These cases require a substantial devotion of energy in order to understand the intricate statutory framework; to grapple with the technologies at issue; and to assimilate the wide range of views both inside and outside



government as to the proper balance of interests in these cases, which have the potential to impact large sectors of the economy.

Criminal cases likewise make up a large portion of the Court's caseload. Criminal defendants regularly challenge the reach of the substantive provisions of criminal law enacted by Congress. And the Court continues to wrestle in criminal cases with issues relating to the scope of constitutional protections in the context of emerging technologies. For example, in recent years, OSG argued *United States v. Jones*, which challenged the warrantless installation and use of a GPS tracking device on a respondent's vehicle to monitor its movements on public streets. OSG also argued *United States v. Wurie* and *Riley v. California*, which involved the government's authority to search cell phones incident to arrest. In preparation for these cases and others, and to ensure OSG is well-positioned, government attorneys spend substantial time and resources to understand the workings and limits of the new technologies.

The Solicitor General likewise defends the implementation of an expanding set of government programs and congressional enactments. Although the precise docket in FY 2017 is impossible to predict, experience suggests that OSG will continue to be involved in cases defining an array of federal statutes, including the Securities Act and the Securities Exchange Act, the Fair Labor Standards Act, the Labor Management Relations Act, the Clean Air Act, the Truth in Lending Act, and the Immigration and Nationality Act. In preparation for these cases, OSG attorneys engage in extensive coordination and consultation with the agencies that Congress has directed to implement these statutes.

Finally, OSG regularly handles important foreign affairs cases, including cases under the Alien Tort Statute and the Torture Victims Protection Act, as well as important constitutional cases. These cases can affect the structure of government and the relationship between the Branches, and they can have important consequences for the conduct of foreign affairs.

In light of the overall budgetary situation in which the Government finds itself, OSG strives to meet the difficult challenge of managing a steady increase in casework, including the significant challenges highlighted in the matters above. For FY 2017, OSG is requesting base funding of 55 positions (23 attorneys), 56 FTE and \$11,928,000 to accomplish its goals.

Following is a brief summary of the Department's Strategic Goals and Objectives in which OSG plays a role.

**DOJ Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Laws (FY 2017 Request: \$11,928,000)**

- Objective 2.6: Protect the federal fisc and defend the interests of the United States.

**Full Program Costs**

OSG has only one program—Federal Appellate Activity. Its program costs consist almost entirely of fixed costs, such as salaries and benefit, GSA rent, reimbursable agreements with other DOJ components, and printing.



## Performance Challenges

**External Challenges.** In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States responds in some way, either by filing a brief or, after reviewing the cases, waiving its right to do so. Additionally, the Supreme Court formally requests the Solicitor General to express the views of the United States on whether the Court should grant *certiorari* in a case in which the United States is not a party. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of *certiorari* filed by an adverse party, or participates as an *intervenor* or as *amicus curiae* is governed exclusively by the Solicitor General's determination that it is in the best interest of the United States to take such action. Further, such activity may vary widely from year to year, which limits the Office's ability to plan its workload.

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The Office of the Solicitor General does not initiate any programs, but it is required to handle all appropriate Supreme Court cases and requests for appeal, *amicus*, or intervention authorization.

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**Internal Challenges.** Prior Fiscal Year performance measures indicate a gradual increase in the number of cases the Solicitor General either participated in and/or responded. The arrival of cases related to the challenges discussed above further predicts an ever increasing caseload.

## Environmental Accountability

OSG has incorporated green purchasing and recycling into its core business processes and continues to look for new and creative ways to integrate environmental accountability into its day-to-day decision making and long-term planning processes.

## II. Summary of Program Changes

N/A

## III. Appropriations Language and Analysis of Appropriations Language

N/A



## IV. Program Activity Justification

### A. Federal Appellate Activity

<b>Federal Appellate Activity</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2015 Enacted	51	56	11,678
2016 Enacted	55	56	11,885
Adjustments to Base and Technical Adjustments	0	0	43
2017 Current Services	55	56	11,928
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	55	56	11,928
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>43</b>

#### 1. Program Description

The major function of the Solicitor General's Office is to supervise the handling of government litigation in the Supreme Court of the United States and in Federal appellate courts, to determine whether an amicus curiae brief will be filed by the government, and to approve intervention by the United States to defend the constitutionality of Acts of Congress.

The original Statutory Authorization Act of June 22, 1870, states: "There shall be in the Department of Justice an officer learned in the law, to assist the Attorney General in the performance of his duties to be called the Solicitor General." As stated in 28 CFR 0.20, the general functions of the Office are as follows: (1) conducting or assigning and supervising all Supreme Court cases, including appeals, petitions for and in opposition to *certiorari*, briefs and arguments; (2) determining whether, and to what extent, appeals will be taken by the government to all appellate courts (including petitions for rehearing *en banc* and petitions to such courts for the issuance of extraordinary writs); (3) determining whether a brief amicus curiae will be filed by the government, or whether the government will intervene, in any appellate court, or in any trial court in which the constitutionality of an Act of Congress is challenged; and (4) assisting the Attorney General and the Deputy Attorney General in the development of broad Department program policy.

This Office does not initiate any programs, have control of the Supreme Court litigation it is required to conduct, or determine the number of appeal and amicus authorizations it handles. Amicus filings often involve important constitutional or Federal statutory questions that will fundamentally affect the administration and enforcement of major Federal programs. Examples in recent Terms include cases presenting significant issues of criminal procedure (affecting the government's ability to succeed in prosecutions), as well as important issues under the civil rights laws (such as the Voting Rights Act and the Americans with Disabilities Act), the environmental laws (such as the Clean Water Act), and many others.

The following table provides a fiscal year snapshot of matters pending at the beginning of the Term of the Supreme Court, additional matters received, completed appellate determinations, certiorari determinations, miscellaneous recommendations, and oral arguments before the Supreme Court.



<i>FY</i>	<i>Supreme Court Term</i>	<i>Matters Pending</i>	<i>Addl. Matters Received</i>	<i>Appellate Determinations</i>	<i>Certiorari Determinations</i>	<i>Miscellaneous Recommendations</i>	<i>Oral Arguments</i>
15	2014	370	2943	479	679	545	56
14	2013	389	3,684	528	663	541	60
13	2012	984	3,668	563	714	525	66
12	2011	458	3,728	614	686	553	58

The figures on determinations and recommendations provided in this document do not directly correspond with the figures provided on the Office's Workload Measurement Tables. Our Workload Measurement Tables track our workload by case; these figures track our workload by determination. Often, the Office of the Solicitor General will receive a request for authorization that includes more than one potential outcome: for example, the Solicitor General may receive a request for authorization for rehearing en banc, or, in the alternative, for a petition for a writ of certiorari. In that case, the Solicitor General may make two determinations; (1) no rehearing and (2) no certiorari. Our Workload Measurement Tables reflect that as a single request; here, we have provided a separate accounting for each determination. Additionally, the figures provided in this document under "miscellaneous requests" include requests for authorization of settlement, for stays, and for mandamus, while the figures on the Performance Measurement Tables do not include such requests.

The figure for oral argument participation reflects the number of oral arguments the Office presented to the Supreme Court as a party, *amicus curiae*, or *intervener*; it does not reflect the total number of underlying cases for each of those arguments.



## 2. Performance and Resource

	FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
<b>Total Costs and FTE</b> (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)	56	11,678	56	11,885		43	56	11,928
<b>TYPE/ STRATEGIC OBJECTIVE</b>	FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Program Activity	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Performance Measure: Output	56	11,678	56	11,885	56	11,928	56	11,928
Performance Measure: Efficiency								
Performance Measure: Outcome								
Cases in which the Solicitor General Participated	3500		3750		3750		3750	
Requests to which the Solicitor General Responded	2000		1851		1851		1851	



**A. Definition. . . Terms or Explanations for Indicators:**

**Footnote 1:** Because the work of the Office is primarily governed by the Supreme Court's schedule, the Office tracks its workload by Supreme Court Term. Fiscal years roughly correspond to Supreme Court Terms, which run from July of the Term year through June of the next year. Reference to fiscal years in this document will reflect information for the applicable Supreme Court Term. Accordingly, FY 2014 corresponds with the 2013 Supreme Court Term, FY 2013 corresponds with the 2012 Supreme Court Term, and so on. The Office of the Solicitor General handles Supreme Court matters on an ongoing basis. As a result, some matters will overlap from one fiscal year to the next, and they are included in the data for the term in which they most appropriately fit.

**Footnote 2:** Includes requests for authorizations as well as recommendations against appeal, intervention, or participation amicus curiae. This category does not include miscellaneous requests, such as requests for authorization of settlement, for stays, for mandamus, etc.

**B. Data Validation and Verification.**

The Office of the Solicitor General handles all aspects of the law-not just civil matters. The Office uses the Automated Docket System (ADS) to track the matters handled by its attorneys. Data are keyed by the Case Management staff. For Supreme Court matters, all data are verified by the Supervisor or her Assistant, and checked against Supreme Court Records. The Case Management System Supervisor executes daily statistical reports to ensure accurate tracking of both Supreme Court matters and requests for authorization to appeal, intervenors, or participate as amicus curiae. Additionally, once a week the Case Management System Supervisor distributes statistical reports on all Office matters to each attorney in the Office. The attorneys then review the reports to ensure accurate tracking of the matters for which they are responsible.

**Issues Affecting OSC's Program Performance.**

The Office of the Solicitor General does not initiate any programs or have control over the number of Supreme Court cases it is required to handle or the number of requests for appeal, amicus, or intervention authorizations it receives. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States is obliged to respond.

Additionally, the Office does not control the number of cases in which the Supreme Court formally requests the Solicitor General to express the views of the United States. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of certiorari filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interests of the United States to do so. Thus, the Solicitor General participates in 100% of the cases in which the United States is required to participate, as well as 100% of the cases in which the Solicitor General has determined that the interests of the United States require participation.



		Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure	Cases in which the Solicitor General Participated	3517	3586	3246	3341	3500	3750	3750	3750	
Performance Measure	Requests to which the Solicitor General responded	2600	2567	1487	1495	2000	1821	1821	1821	
Performance Measure										
Efficiency Measure										
OUTCOME Measure										

N/A = Data unavailable  
\* Denotes inclusion in the DOJ Annual Performance Plan



## 2. Performance, Resources, and Strategies

The Office of the Solicitor General's only decision unit—Federal Appellate Activity—contributes to the Department's Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law. The decision unit's total resources fall under the Department's Strategic Objective 2.6 – Protect the federal fisc and defend the interests of the United States.

### a. Performance Plan and Report for Outcomes

Because the work of the Office is primarily governed by the Supreme Court's schedule, the Office tracks its workload by Supreme Court Term. Fiscal years roughly correspond to Supreme Court Terms, which run from July of the Term year through June of the next year.

The first performance measure reflects "cases in which the Solicitor General participated" During the 2014 (FY 2015) Supreme Court Term, the Solicitor General participated in cases and it is anticipated OSG will meet its target of cases in the 2015 (FY 2016) Term.

The second performance measure reflects "Requests for determinations regarding appeal, *certiorari*, or other matters to which the Solicitor General responded" During the 2014 (FY 2015) Supreme Court Term, the office responded to requests. It is anticipated OSG will meet its target of cases within the allotted reporting period.

The Office of the Solicitor General does not initiate any programs, have control over the number of Supreme Court cases it is required to handle, or determine the number of requests for appeal, amicus, or intervention authorizations it receives. In the vast majority of cases filed in the Supreme Court in which the United States is a party, a petition is filed by an adverse party and the United States is obliged to respond in some way, either by filing a brief or (after review of the case) waiving the right to do so. Additionally, the Office does not control the number of cases in which the Supreme Court formally requests the Solicitor General to express the views of the United States. Thus, performance measures may vary widely from year to year which increases the likelihood that OSG's actual measures will also vary widely from projected goals. The number of cases in which the Solicitor General petitions the Supreme Court for review, acquiesces in a petition for a writ of *certiorari* filed by an adverse party, or participates as an intervenor or as amicus curiae is governed exclusively by the Solicitor General's determination that it is in the best interests of the United States to take such action.

### b. Strategies to Accomplish Outcomes

To fulfill the Office of the Solicitor General's critical mission of representing the interests of the United States in the Supreme Court, the Office will devote all resources necessary to prevail in the Supreme Court. For FY 2017, OSG is requesting base funding of 55 positions, 56 FTE, and \$11,928,000 to accomplish its goals.

OSG has experienced a steady increase in Court related activities and has been called upon to assume responsibilities requiring a skilled workforce in furtherance of its mission. OSG attorneys have briefed and argued particularly difficult and technical civil and civil rights cases in the 2012-2013 term. Major cases included *Fisher v. University of Texas* (affirmative action); *Shelby County v. Holder* (Voting Rights Act); *Hollingsworth v. Perry* (Equal Protection Clause); *United*



*States v. Windsor* (Defense of Marriage Act); and *Association for Molecular Pathology v. Myriad Genetics, Inc.*, (human genes patent).

In the 2013-2014 term, major criminal cases such as *United States v. Wurie*, *Bond v. United States*, *Utility Air Regulatory Group v. EPA*, and other cases of note such as *McCutcheon v. Federal Election Commission*, has necessitated funding for continued resources to successfully meet the inherent challenges of our mission.

In the 2014-2015 term, major cases included *Zivotofsky v. Kerry* (affirmative action); *Equal employment Opportunity Commisison v. Abercrombie & Fitch Stores* (Civil Rights Act); *Utility Air Regulatory Group v. Environmental Protection Agency* (Clean Air Act); *Johnson v. U.S.* (Armed Career Criminal Act); *Federal Energy Regulatory Commission v. Electric Power Supply Association* (Federal Power Act); *Dollar General Corporation v. Mississippi Band of Choctaw Indians* (Adjudication) ; *Evenwel v. Abbott* (Equal Protection Clause); and *RJR Nabisco v. The European Community* (Racketeer Influenced and Corrupt Organization Act (“RICO”)).

**c. Priority Goals**

OSG’s general goals for FY 2017 are as follows:

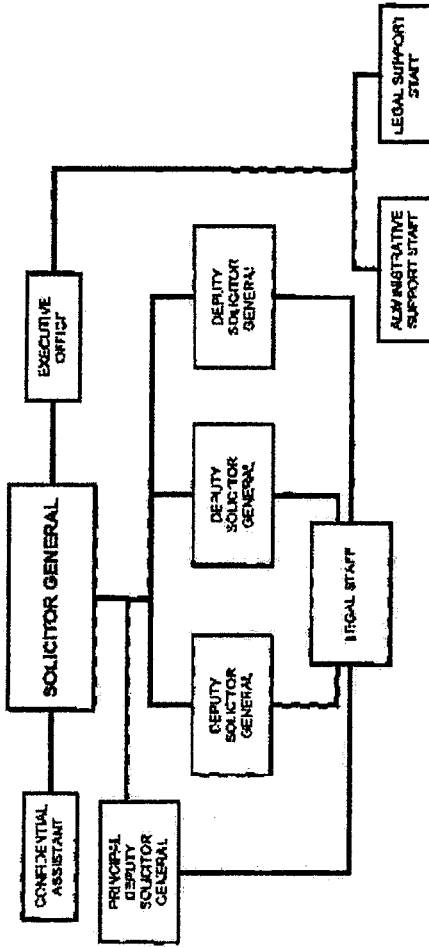
- Representing the interests of the United States in the Supreme Court.
- Devote all resources necessary to prevail in the Supreme Court.

**V. Program Increases by Item: N/A**

**VI. Program Offsets by Item: N/A**



# OFFICE OF THE SOLICITOR GENERAL



Approved by

*Eric L. Lipton, Jr.*  
 ERIC L. LIPTON, JR.  
 Attorney General

Order: BUKL 23, 2012



**Summary of Requirements**

Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	51	47	11,678
Total 2015 Enacted	51	47	11,678
2016 Enacted	55	56	11,885
Base Adjustments			
Pay and Benefits	0	0	72
Domestic Rent and Facilities	0	0	-29
Total Base Adjustments	0	0	43
Total Technical and Base Adjustments	0	0	43
2017 Current Services	55	56	11,928
2017 Total Request	55	56	11,928
2016 - 2017 Total Change	0	0	43

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Federal Appellate Activity	51	47	11,678	55	56	11,885	0	0	43	55	56	11,928
<b>Total Direct</b>	<b>51</b>	<b>47</b>	<b>11,678</b>	<b>55</b>	<b>56</b>	<b>11,885</b>	<b>0</b>	<b>0</b>	<b>43</b>	<b>55</b>	<b>56</b>	<b>11,928</b>
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			<b>11,678</b>			<b>11,885</b>			<b>43</b>			<b>11,928</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>47</b>			<b>56</b>			<b>0</b>			<b>56</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>47</b>			<b>56</b>			<b>0</b>			<b>56</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Federal Appellate Activity	0	0	0	0	0	0	55	56	11,928
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>56</b>	<b>11,928</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>0</b>			<b>0</b>			<b>11,928</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>56</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>56</b>	



Resources by Department of Justice Strategic Goal and Objective

Office of the Solicitor General

Salaries and Expenses

(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Request	Direct Amount	Direct & Reimb FTE
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	56	11,678	56	56	11,885	56	56	11,928	0	0	0	0	56	11,928	56
2.6 Protect the federal fisc and defend the interests of the United States	56	11,678	56	56	11,885	56	56	11,928	0	0	0	0	56	11,928	56
Subtotal, Goal 2	56	11,678	56	56	11,885	56	56	11,928	0	0	0	0	56	11,928	56
TOTAL	56	11,678	56	56	11,885	56	56	11,928	0	0	0	0	56	11,928	56



**Justifications for Technical and Base Adjustments**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

262

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Pay and Benefits</b>			
<b>1 2017 Pay Raise - 1.6%</b> The request provides for a proposed 1.6 percent pay raise to be effective in January 2017. The amount requested, \$94,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$67,680 for pay and \$26,320 for benefits).	0	0	94
<b>2 Annualization of 2016 Pay Raise</b> The pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the FY 2016 President's Budget. The amount requested, \$28,000, represents the pay amounts of 1/4 of the fiscal year plus appropriate benefits (\$19,000 for pay and \$7,000 for benefits).	0	0	26
<b>3 Changes in Compensable Days</b> The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$6,069,000 and applicable benefits \$1,195,000 by 260 compensable days.	0	0	-57
<b>4 Retirement</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DCJ workforce will current (in CSRS) in FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DCJ retirement data. The requested increase of \$2,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	9
<b>Subtotal, Pay and Benefits</b>	0	0	72
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for space leased under the contract. The requested increase of \$31,000 is required to meet our commitment to GSA. This costs associated with GSA, which includes the cost of the leased space, the building currently occupied by Department of Justice components, as well as the cost of new space to be leased.	0	0	-31
<b>2 Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges, and other security services across the country. The requested increase of \$2,000 is required to meet these commitments.	0	0	2
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	-29
<b>TOTAL DIRECT TECHNICAL AND BASE ADJUSTMENTS</b>	0	0	43



**Crosswalk of 2015 Availability**

Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds		FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Amount		Direct Pos.	Actual FTE	Amount
Federal Appellate Activity	51	47	11,678	0	0	300		0	0		51	47	11,978
<b>Total Direct</b>	<b>51</b>	<b>47</b>	<b>11,678</b>	<b>0</b>	<b>0</b>	<b>300</b>		<b>0</b>	<b>0</b>		<b>51</b>	<b>47</b>	<b>11,978</b>
Balance Rescission			0			0	0	0	0				0
Total Direct with Rescission													
Reimbursable FTE		0	11,678		0	300	0	0	0				11,978
<b>Total Direct and Reimb. FTE</b>		<b>47</b>			<b>0</b>							<b>47</b>	
Other FTE:													
LEAP FTE		0			0								0
Overtime		0			0								0
<b>Grand Total, FTE</b>		<b>47</b>			<b>0</b>							<b>47</b>	

**Reprogramming/Transfers:**

Funding of \$300K was reallocated from GLA's ALS account to the Office of Solicitor General.



**Crosswalk of 2016 Availability**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Federal Appellate Activity	55	56	11,885	0	0	0	0	0	55	56	11,885
<b>Total Direct</b>	<b>55</b>	<b>56</b>	<b>11,885</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>56</b>	<b>11,885</b>
Balance Rescission			0			0	0	0	0		0
Total Direct with Rescission		0	11,885		0	0		0	0		11,885
Reimbursable FTE											
<b>Total Direct and Reimb. FTE</b>		<b>56</b>			<b>0</b>						
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0								0	
<b>Grand Total, FTE</b>		<b>56</b>			<b>0</b>	<b>0</b>				<b>56</b>	

Reprogramming/Transfers:



I. Detail of Permanent Positions by Category

**Detail of Permanent Positions by Category**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	Program Increases	Program Offsets	
Clerical and Office Services (0300-0399)	12	0	16	0	0	0	16
Accounting and Budget (500-599)	1	0	1	0	0	0	1
Paralegals / Other Law (900-999)	11	0	11	0	0	0	11
Attorneys (905)	23	0	23	0	0	0	23
Information & Arts (1000-1099)	3	0	3	0	0	0	3
Information Technology Mgmt. (2210-2299)	1	0	1	0	0	0	1
<b>Total</b>	<b>51</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>
Headquarters Washington D.C.	51	0	55	0	0	0	55
U.S. Fields	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0
<b>Total</b>	<b>51</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>



K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	47	4,642	56	5,693	56	5,845	0	152
11.3 - Other than full-time permanent	0	863	0	504	0	500	0	-4
11.5 - Other personnel compensation	0	152	0	140	0	140	0	0
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>47</b>	<b>5,657</b>	<b>56</b>	<b>6,337</b>	<b>56</b>	<b>6,485</b>	<b>0</b>	<b>148</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		1,644		1,736		1,777		41
21.0 - Travel and transportation of persons		21		25		25		0
22.0 - Transportation of things		75		123		127		4
23.1 - Rental payments to GSA		1,342		1,848		1,467		-381
23.2 - Rental payments to others		99		100		102		2
23.3 - Communications, utilities, and miscellaneous charges		114		142		147		5
24.0 - Printing and reproduction		218		236		244		8
25.1 - Advisory and assistance services		208		219		227		8
25.2 - Other services from non-federal sources		1,814		374		679		305
25.3 - Other goods and services from federal sources		453		433		448		15
25.6 - Medical care		5		5		5		0
25.7 - Operation and maintenance of equipment		30		33		34		1
26.0 - Supplies and materials		106		124		120		-4
31.0 - Equipment		150		150		41		-109
<b>Total Obligations</b>		<b>11,936</b>		<b>11,885</b>		<b>11,928</b>	<b>0</b>	<b>43</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0		0
Transfers/Reprogramming		-300		0		0		0
Recoveries/Refunds		0		0		0		0
Balance Rescission		0		0		0		0
Unobligated End-of-Year, Available		0		0		0		0
Unobligated End-of-Year, Expiring		42		0		0		0
<b>Total Direct Requirements</b>		<b>11,678</b>		<b>11,885</b>		<b>11,928</b>		<b>43</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0		0	0



**Summary of Requirements by Grade**  
Office of the Solicitor General  
Salaries and Expenses  
(Dollars in Thousands)

Grades and Salary Ranges	2015 Enacted		2016 Enacted Continuing Resolution		2017 Request		Increase/Decrease	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
EXEC \$145,700 - 199,700	1	0	1	0	1	0	0	0
SES/SL \$119,554 - 179,700	4	0	4	0	4	0	0	0
GS-15 \$123,758 - 155,500	18	0	16	0	16	0	0	0
GS-14 \$105,211 - 136,771	3	0	4	0	4	0	0	0
GS-13 \$89,033 - 115,742	5	0	5	0	5	0	0	0
GS-12 \$74,872 - 97,333	8	0	6	0	6	0	0	0
GS-11 \$62,467 - 81,204	7	0	13	0	13	0	0	0
GS-9 \$51,630 - 67,114	5	0	6	0	6	0	0	0
Total Appropriated Positions	51	0	55	0	55	0	0	0
Average SES Salary		0		0		0		
Average GS Salary		0		0		0		
Average GS Grade		13		13		13		



**Tax Division**  
**United States Department of Justice**

**FY 2017 Congressional Budget**





## Table of Contents

	Page No.
<b>I. Overview .....</b>	1
<b>II. Summary of Program Changes .....</b>	5
<b>III. Appropriations Language and Analysis of Appropriations Language..</b>	5
<b>IV. Decision Unit Justification.....</b>	6
A. General Tax Matters .....	
1. Program Description .....	7
2. Performance Tables .....	20
3. Performance, Resources, and Strategies .....	22
a. Strategies to Achieve Goal .....	25
<b>V. Program Offsets by Item.....</b>	26
<b>VI. Exhibits.....</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Changes by Decision Unit – Not Applicable	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations – Not Applicable	



## I. Overview

### A. Introduction

The Tax Division has one purpose: to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation. To accomplish this, the Tax Division requests a total of 639 permanent positions (377 attorneys), 534 full-time equivalent (FTE) work years and \$114,135,000 for FY 2017.

The United States engages with all Americans through our tax system. We ask our citizens, residents, and those who earn income in this country to report their confidential financial information annually and to self-assess and pay their tax liabilities. These tax collections then fund government services, from national defense to national parks. The United States has an obligation to ensure fair and consistent enforcement of our tax laws. We owe each person and business complying with the tax laws a commitment to enforce the laws against those who do not comply. We also owe every taxpayer the assurance that our tax laws will be enforced on a consistent basis throughout the nation. Meeting these obligations is the Tax Division's central mission.

The Tax Division represents the United States in virtually all litigation – civil and criminal, trial and appellate – arising under the internal revenue laws, in all state and federal courts except the United States Tax Court. To assist the Internal Revenue Service (IRS or the Service) in effectively enforcing the tax laws, Tax Division litigators must support the Service's investigations and determinations in civil cases and also prosecute criminal violations of the revenue laws. Tax Division civil litigators enforce the Service's requests for information in ongoing examinations, and collect and defend tax assessments when the Service's examinations are complete. The Civil sections of the Tax Division have, on average, nearly 6,600 civil cases in process annually. In any given year, the Tax Division's civil appellate attorneys handle about 700 civil appeals, about half of which are from decisions of the Tax Court, where IRS attorneys represent the Commissioner. To help achieve uniformity in nationwide standards for criminal tax prosecutions, the Tax Division's criminal prosecutors authorize almost all grand jury investigations and prosecutions involving violations of the internal revenue laws. Alone or in conjunction with Assistant United States Attorneys, Tax Division prosecutors investigate and prosecute these crimes. The Division authorizes between 1,300 and 1,800 criminal tax investigations annually.

The Tax Division's litigation activities are an indispensable part of our Nation's tax system. The Division contributes to tax enforcement in many ways: by the immediate and long-term financial impact of its cases; by the salutary effect our civil and criminal litigation has on voluntary compliance with the tax laws; by ensuring fair and uniform enforcement of the tax laws; by defending IRS employees against charges arising from the conduct of their official duties; and by lending the financial-crimes expertise of our tax prosecutors to the enforcement of other laws with financial aspects.

1. **Financial Impact: Immediate as well as Long-Term.** The Division is currently defending refund suits that collectively involve over \$10.6 billion dollars.<sup>1</sup> This amount measures only the amount involved in the lawsuits themselves. It does not include the amounts at issue with the same taxpayers for other years or the amounts at issue with other taxpayers who will be bound by the outcome of the litigation. Decisions in the Division's cases may reduce the need for future administrative and judicial tax proceedings, by creating binding precedents that settle questions of

<sup>1</sup> See IRS Data Books 2014, <http://www.irs.gov/uac/SOI-Tax-Stats-Data-Book>, Table 27.



law that govern millions of taxpayers. Moreover, millions more dollars are saved each year because the Division successfully defends the Government against many tax-related suits brought by taxpayers and third parties.

2. **Improving Voluntary Compliance.** The Tax Division's success rate in its litigation – more than 90% – has an enormous effect on voluntary tax compliance.<sup>2</sup> By law, the IRS cannot make public the fact of an IRS audit, or its result. By contrast, the Tax Division's important tax litigation victories receive wide media coverage, leading to a significant multiplier effect on voluntary compliance.<sup>3</sup> Efforts of the IRS and the Tax Division are having a positive effect on voluntary compliance. According to the most recent survey by the IRS Oversight Board, 86 percent of those surveyed think it is “not at all” acceptable to cheat on taxes.<sup>4</sup> The public attitude that it is not at all acceptable to cheat on your income taxes increased between 2011 and 2013 from 84 percent to 86 percent, while tolerance for tax cheating dropped from 14 percent to 12 percent. Also, the Commissioner's Offshore Voluntary Disclosure Initiatives, operating alongside the Division's ongoing criminal and civil enforcement actions concerning unreported offshore accounts, have resulted in an unprecedented number of taxpayers – over 40,000 since 2009 – attempting to “return to the fold” by paying back taxes, interest and penalties totaling over \$6 billion dollars. As an integral part of the IRS's enforcement efforts, the Tax Division contribute to the nation's ability to collect over \$3 trillion in taxes each year.<sup>5</sup>
3. **Fair and Uniform Enforcement of Tax Law.** The Tax Division plays a major role in assuring the public that the tax system is enforced uniformly and fairly. Because the Division independently reviews the merits of each case the Internal Revenue Service requests be brought or defended, it is able to ensure that the Government's litigating positions are consistent with applicable law and policy. An observation about the Division made nearly 75 years ago still rings true today: “[T]he Department of Justice, as the Government's chief law office, is in a position to exercise a more judicial and judicious judgment. With taxes forming a heavy and constant burden it is essential that there be this leavening influence in tax litigation. Next to the constant availability of the courts, the existence of the Division is the greatest mainstay for the voluntary character of our tax system.”<sup>6</sup>

<sup>2</sup> A widely regarded study concluded that the marginal indirect revenue-to-cost ratio of a criminal conviction is more than 16 to 1. While no comparable study of civil litigation exists, the same research suggests that IRS civil audits -- the results of which are not publicly disclosed -- have an indirect effect on revenue that is more than 10 times the adjustments proposed in those audits. Alan H. Plumley, *The Determinants of Individual Income Tax Compliance*, pp. 35, 40, Internal Revenue Service Publication 1916 (1996). ). Another predicts that an additional dollar allocated to civil audits would return \$67 in general deterrence, while an additional dollar allocated to criminal investigation results in \$55 of deterrence. Jeffrey A. Dubin, *The Causes and Consequences of Income Tax Noncompliance* 256 (2012).

<sup>3</sup> “The IRS ... found that taxpayers who heard about IRS audit activity via the media [rather than through word of mouth] were less likely to cheat...” Leandra Lederman, *The Interplay Between Norms and Compliance*, 64 Ohio. St. L. J. 1453, 1494-95 (2003), quoting Robert M. Melia, *Is the Pen Mightier than the Audit?*, 34 Tax Notes 1309, 1310 (1987).

<sup>4</sup> See IRS Oversight Board 2014 Taxpayer Attitude Survey, December, 2014, <http://www.treasury.gov/irsob/reports/Pages/default.aspx>.

<sup>5</sup> See Internal Revenue Service Data Book, 2014, Table 1, <http://www.irs.gov/uac/SOI-Tax-Stats-IRS-Data-Book>.

<sup>6</sup> Lucius A. Buck, *Federal Tax Litigation and the Tax Division of the Department of Justice*, 27 Va. L. Rev. 873, 888 (1940).



4. ***Defending IRS Officials and the United States against Damage Suits.*** The Tax Division effectively defends IRS agents and officers, and the Government itself, against unmeritorious damage suits. Without successful representation of the quality provided by the Division, these suits could cripple or seriously impair effective tax collection and enforcement.
5. ***Expertise in Complex Financial Litigation.*** The Division's investigations, prosecutions, and civil trials often involve complex financial transactions and large numbers of documents. The Division is able to use the unique expertise its attorneys have developed in litigating complex tax cases to assist in other important areas of law enforcement, including:
  - fighting terrorism as part of the Joint Terrorism Task Force, by investigating and prosecuting people and organizations that funnel money to terrorists;
  - combating financial fraud as part of the President's Financial Fraud Enforcement Task Force;
  - reducing drug trafficking as part of the Organized Crime and Drug Enforcement Task Force (OCDETF); and investigating public corruption by working on prosecution teams with attorneys from various United States Attorney's Offices and the Department's Criminal Division.

### ***B. Full Program Costs***

The FY 2017 budget request assumes 72% of the Division's budget and expenditures can be attributed to its Civil Tax Litigation and Appeals and 28% percent to Criminal Tax Prosecution and Appeals. This budget request incorporates all costs, including mission costs related to cases and matters, mission costs related to oversight and policy, and overhead.

### ***C. Environmental Accountability***

The Tax Division has in place existing policies to incorporate environmental accountability in its day-to-day operations. These include green purchasing policies such as: (i) mandating the purchase of recycled paper products (copier/printer paper, paper towels) and (ii) training and written guidance on green purchasing for those employees responsible for purchasing office supplies. In addition, the Tax Division reduces waste and environmental impact by: (i) setting the default on printers to two-sided printing; (ii) placing recycling bins for paper, glass, aluminum, and plastic in central locations and providing paper recycling containers for individual employee use; (iii) recycling used printer cartridges; (iv) promoting distribution of documents in electronic format only; (v) promoting scanning instead of photocopying; and (vi) recycling cell phones, laptops, computers and computer battery packs. The Tax Division has an environmentally sound destruction method in which sensitive materials that previously were burned are now shredded and recycled.

The Division continues to work to reduce the environmental impact of its buildings. The Division is working with each building's Property Manager as they pursue LEED Certifications for their facilities through the General Services Administration and U.S. Green Building Counsel. On May 25, 2012, the Patrick Henry Building earned a Prestigious "LEED Silver Certification. Tax-occupied space in the Judiciary Center Building has been retrofitted with energy-efficient light fixtures and light bulbs, and motion sensors have replaced light switches throughout the Patrick Henry Building. The Division works with construction and maintenance contractors to use green materials whenever possible.



### ***D. Performance Challenges***

The Tax Division faces two serious and immediate challenges to the accomplishment of its mission.

#### **External – Reducing the Tax Gap amid Increasing Globalization**

The IRS collects more than \$3 trillion annually. Enforcement actions brought in almost \$34.2 billion for FY2014. The IRS estimates that the annual tax gap – the difference between taxes owed and taxes paid voluntarily and timely – is \$450 billion. The IRS Oversight Board cited “Enforcement programs allow the IRS to further voluntary compliance, help reduce the estimated \$450 billion tax gap, and provide much needed dollars to the federal purse.”<sup>7</sup> Improving compliance is the number one priority in the IRS Strategic Plan. The problem is exacerbated by the vast increase in financial globalization, which has expanded the opportunities for assets and income to be easily hidden offshore.

Reducing the tax gap will require increased enforcement. The challenge is to narrow that gap in a manner that not only collects the revenue due, but also assures the public that enforcement actions are vigorous, fair, and uniform.

#### **Internal – Retaining an Experienced Workforce to Handle Complex Litigation**

The Tax Division’s workload is directly related to IRS enforcement efforts. Historically, an increase in IRS enforcement activity leads to increased Division workload, with a lag time of about two years. Moreover, it is expected that the Division’s cases – both civil and criminal – will continue to become increasingly complex, as the IRS focuses its enforcement efforts on offshore issues and on taxpayer populations with more sophisticated tax issues, such as flow-through entities, high-income individuals, and corporations.

It remains a challenge for the Tax Division to retain highly trained and experienced attorneys who can serve effectively as lead counsel in our most complex cases. The existing caseload, coupled with increased IRS enforcement, will likely lead to an increase in the numbers of these highly complex cases over the next three years.

## **II. Summary of Program Changes**

None

## **III. Appropriations Language and Analysis of Appropriations Language**

The Tax Division is not proposing new appropriations language for the FY 2017 President’s Budget.

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<sup>7</sup> IRS Oversight Board, FY 2015 Budget Recommendation, Special Report, May 2014.



**IV. Decision Unit Justification**

<b><i>Tax Division</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	639	534	106,674
2016 Enacted	639	534	106,979
Adjustments to Base and Technical Adjustments	0	0	7,156
2017 Current Services	639	534	114,135
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	639	534	114,135
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>7,156</b>

<b><i>Tax Division-Information Technology Breakout (of Decision Unit Total)</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	20	20	7,805
2016 Enacted	20	20	7,805
Adjustments to Base and Technical Adjustments	0	0	0
2017 Current Services	20	20	7,805
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	20	20	7,805
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>0</b>



## 1. PROGRAM DESCRIPTION

### a) Civil Tax Litigation

The Tax Division is responsible for litigating all matters arising under the internal revenue laws in all state and federal trial courts, except the Tax Court, and in appeals from all trial courts, including the Tax Court. Tax Division trial attorneys *defend* the United States in suits relating to the tax laws, including tax shelter cases, refund suits, and other suits seeking monetary or other relief. Tax Division trial attorneys also *bring* suits that the IRS has requested, including suits to stop tax scam promoters and preparers; suits to collect unpaid taxes; and suits to allow the IRS to obtain information needed for tax enforcement. Tax Division civil appellate attorneys represent the United States in all appeals from trial court decisions.

#### Halting the Spread of Tax Shelters

The proliferation of abusive tax shelters is a significant problem confronting our tax system. Abusive tax shelters used by large corporations and high-income individuals cost the government billions of dollars annually, according to Treasury Department estimates.

Tax shelter litigation is among the most sophisticated and important litigation handled by the Tax Division. Tax shelters are designed to generate large purported tax benefits using multiple entities and complex financial transactions that lack a real business purpose or any real economic substance. Shelter cases often involve well-disguised transactions and tax-indifferent parties located in other countries, making case development and document discovery difficult and expensive. Successfully defending in federal trial and appellate courts the IRS's disallowance of sham tax benefits is critical to the government's efforts to combat abusive tax shelters. Because tax shelters typically involve enormous sums of money and often attract significant media attention, a coordinated and effective effort is essential to prevent substantial losses to the Treasury and deter future use of such tax shelters by other taxpayers.

The Tax Division plays a critical role in the government's efforts to combat abusive tax shelters by defending in federal trial and appellate courts the IRS's disallowance of sham tax benefits. The Division has in place a coordinated and effective strategy to litigate tax shelter cases. Tax shelter cases are staffed by litigation teams headed by the Division's most experienced litigators. Since 2003, the Division has had a Tax Shelter Coordinator, who is the principal reviewer for substantive tax shelter briefs and who works closely with Division management, Division line attorneys, and IRS Chief Counsel lawyers to ensure that all legal positions taken in tax shelter cases are uniform and incorporate the latest judicial decisions, and that the briefs and oral arguments submitted are as persuasive and polished as possible. The Division's Tax Shelter Coordinator assists the Division in these cases by reviewing draft briefs, providing important comments to the trial teams handling these cases, and organizing moot courts, roundtables, post mortems, and similar training efforts.

In December 2013, in a case involving a Current Options Bring Reward Alternatives (COBRA) shelter, the Supreme Court reversed an adverse Fifth Circuit decision and held that the 40% gross valuation misstatement penalty is applicable when a taxpayer engages in an abusive tax shelter transaction that is disregarded in its entirety for lack of economic substance. *United States v. Woods* (Sup. Ct. 2013). The decision also addressed a thorny partnership jurisdictional issue and held that the



district court had jurisdiction to determine the applicability of the 40% penalty in a partnership-level proceeding, distinguishing between the “applicability” determination and the ultimate imposition of the penalty on partners. The *Woods* decision has favorably impacted several other tax shelter cases pending in various appellate courts.

The Division notched some significant victories over shelters at the trial level in 2015. On August 12, 2015, the Court of Federal Claims issued an opinion sustaining the United States’ position in a distressed asset/debt tax shelter. In *Russian Recovery Fund v. United States* (Fed. Cl.), the underlying transaction involved trying to shift \$230 million of losses on near-worthless Russian government bonds from a tax-indifferent foreign entity to U.S. taxpayers who could use the losses to shelter their own income. The court held that the transaction lacked economic substance and that one of the partnerships in the purportedly loss-generating transaction was a sham. In another distressed asset/debt shelter case, a court upheld \$4.6 million in penalties against the taxpayers after rejecting the taxpayers’ claim to have had reasonable cause to believe that the shelter was legal. *McNeill v. United States* (D. Wyo.).

On November 19, 2015, a district court granted the United States’ motion for partial summary judgment. *Austin Investment Fund v. United States* (D.D.C.). The underlying transaction involved the Chinese government’s purchase, through one state-owned bank, China Orient, of a non-performing loan portfolio in order to prop up another state-owned bank, Bank of China. China Orient overpaid for the loan portfolio. It then “contributed” the loans to a partnership, and the partnership attempted to transfer the loans to U.S. taxpayers who could claim losses on the portfolio from the difference between China Orient’s purchase price and the portfolio’s actual value. The court held that because the two state-owned banks were both controlled by China, the IRS could adjust the partnership’s basis in the loan to reflect an arms’-length price.

On December 19, 2014, the court granted our motion for summary judgment in a number of Bond Linked Issue Premium Structure (BLIPS) related tax shelter cases, *Shasta Strategic Investment Fund v. United States* (N.D. Calif.), whose main architects of the transactions were John Larson, Robert Pfaff and D. Amir Makov. These cases involve a total of 91 strategic investment funds Pfaff and Larson created to engage in various BLIPS transactions. Pfaff and Larson were convicted of 12 counts of tax evasion in the *Stein* criminal case, including 10 counts involving BLIPS transactions at issue here. Makov pleaded guilty to conspiracy and cooperated with the government. The court had already granted summary judgment with regard to the 9 strategic investment funds (10 BLIPS transactions) at issue in *Stein*, based on collateral estoppel. Earlier, the court also granted judgment in favor of the United States on the remainder of the strategic investment funds on the issues of whether the BLIPS transactions lacked economic substance and on several penalty issues. In the court’s most recent order in December 2014, it granted judgment denying deductions for losses from foreign currency trading activity, management fees and guaranteed payment expenses associated with the tax shelter, and provisionally applied the substantial understatement penalty. Importantly, the court distinguished the decision in *Klamath v. United States*, 472 F. Supp. 2d 885, which had allowed deductions for the trading losses for the same BLIPS shelter. As for the substantial understatement penalty, citing the recent Supreme Court decision in *Woods*, the court found that the penalty applied provisionally at the partnership level because it relates to an adjustment of a partnership item and because there are no disputes of material fact as to any defenses to the penalty. Certain aspects of the Court’s decision are on appeal, but not the decision that the BLIPS transaction lacked economic substance.



Moreover, there are four cases in various stages of litigation that deal with the abusive tax shelter known as Structured Trust Advantaged Repackaged Securities, or STARS, designed to generate large foreign tax credits<sup>8</sup> for U.S. taxpayers, and jointly promoted by Barclays Bank PLC and KPMG LLP:

- In **Salem Financial, Inc. (BB&T) v. United States** (Fed. Cir.), the Court of Federal Claims, following a lengthy trial, held that the STARS transaction lacked economic substance and denied BB&T's claim to a \$660 million tax benefit. The Federal Circuit upheld the disallowance of the foreign tax credits, noting that the STARS shelter transaction not a genuine business transaction involving economic risk, but merely a "money machine." The Federal Circuit also affirmed the application of accuracy-related penalties to the underpayment of tax resulting from the claimed foreign tax credits.
- In **Bank of New York Mellon Corp. v. Commissioner** (2d Cir.), the Tax Court held that the STARS transaction lacks economic substance and denied the Bank of New York's claim to a \$199 million tax benefit, but allowed the deduction of interest payments made as part of the transaction. The Second Circuit affirmed, explaining that the STARS transaction lacked economic substance because it was unprofitable without the foreign tax credits and was based on meaningless circular cash flows. The Court further held that the Bank lacked a legitimate business purpose for engaging in the STARS transaction.
- **Santander Holdings (Sovereign Bank) v. United States** (D. Mass.), involves a tax benefit of approximately \$337 million from a STARS transaction. The district court granted Sovereign Bank's partial motion for summary judgment that a certain payment in the transaction was pretax profit. The parties filed supplemental briefs regarding whether the ruling moots the remaining issues, and that issue is pending before the court.
- In **Wells Fargo v. United States** (D. Minn.), Wells Fargo seeks approximately \$177 million in refunds. It filed four motions for partial summary judgment and three *Daubert* motions. The district court denied Wells Fargo's summary judgment motions in November 2015. A jury trial is expected to commence in 2016.

Separately, the Division also prevailed in two cases involving "sale-in/lease-out" and "lease-in/lease-out" (SILO/LILO) tax shelters:<sup>9</sup> **UnionBanCal Corp. & Subsidiaries v. United States** (Fed. Cl.) and **Consolidated Edison Co. v. United States** (Fed. Cir. 2013). In October 2013, the Court of Federal Claims issued a favorable opinion in *UnionBanCal* concerning a LILO transaction involving a public arena in Anaheim, California. The taxpayer had sought a refund of approximately \$91 million. In *Consolidated Edison*, the Federal Circuit unanimously reversed the lone trial court decision that had upheld the purported tax benefits of the LILO shelter.

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<sup>8</sup> Foreign-tax-credit-generator tax shelters involve international transactions between a U.S. taxpayer and a foreign taxpayer in which a special-purpose entity is created to exploit inconsistencies between the U.S. and the foreign tax system, so that two parties to the transaction are both treated as paying a single foreign tax, where the underlying economic transaction would have subjected the U.S. taxpayer to little or no foreign tax.

<sup>9</sup> Lease In/Lease Out and Sales In/Lease Out transactions involve either a lease or sale followed by lease-back of assets from a U.S. tax-indifferent entity (e.g., a foreign entity or a U.S. nonprofit) to a U.S. taxpayer, with no change in the use of the assets, but immediate tax benefits for the U.S. taxpayer. Many transit agencies around the country became involved in LILO or SILO transactions, as the tax-indifferent entity.



Despite these significant victories, the Tax Division anticipates that tax shelters will continue to be contested in both the federal district courts and in the Court of Federal Claims over the next several years.

### **Shutting Down Tax-Fraud Schemes and Fraudulent Return Preparers**

The Tax Division has a successful program to put tax-fraud promoters and fraudulent tax preparers out of business. Some of the cases involved parallel criminal proceedings as well. The promoters sued range from tax defiers selling frivolous packages that falsely promise to eliminate customers' income tax entirely, to lawyers and accountants selling sophisticated, complex tax shelters to wealthy business owners. The Division also supports the IRS's assessments of penalties against promoters. In one recent example, *In re Canada* (Bankr. N.D. Tex.), the United States is defending the IRS's assessment of more than \$40 million in penalties against an attorney who promoted so-called "Son of BOSS" tax shelters.

Since 2000, Tax Division attorneys have obtained injunctions against more than 500 tax-fraud promoters and return preparers. This number represents a dramatic increase over the 1990s, when the total number of promoters and preparers enjoined barely reached 25 for the entire decade. The schemes the Division has enjoined during the past several years had cost the Federal Treasury more than \$2 billion and placed an enormous administrative burden on the IRS. If permitted to continue unchecked, these schemes would undermine public confidence in the integrity of our tax system, and require both the IRS and the Tax Division to devote tremendous resources to detecting, correcting, and collecting the resulting unpaid taxes.

Tax Division lawyers have, for many years, participated in IRS training classes and conferences to help agents and Chief Counsel attorneys learn about the injunction process and how to conduct an investigation that leads to a successful injunction referral.

In the past few years, the Division has litigated a number of significant injunction suits. In *United States v. ITS Financial LLC, et. al.* (S.D. Ohio), the court, on November 6, 2013, entered a permanent injunction ordering ITS Financial LLC, the parent company of the Instant Tax Service franchise, to cease operating. Instant Tax Service, based in Dayton, Ohio, claimed to be the fourth-largest tax-preparation firm in the nation. The court stated: "Defendants' harm to the public is extensive and egregious, indeed appalling. This is especially so given the nature of Instant Tax Service's core customer – the working poor – who are particularly vulnerable to Defendants' fraudulent practices."

On November 23, 2015, the Division filed two civil injunction suits to shut down nationwide allegedly fraudulent tax schemes. The first suit, *United States v. RaPower-3* (D. Utah), concerns a scheme to take the solar energy credit through "revolutionary" technology. In fact, the technology is a sham; the purported solar facility does not produce energy that can be collected and used as required by the Internal Revenue Code. The second suit is *United States v. Tarpey et al.* (D. Mont.) James Tarpey operates Donate for a Cause, a tax-exempt entity that encourages customers to donate unwanted timeshares—but it provides the customers with a false and inflated appraisal to enable the customers to claim a tax deduction far in excess of the value of the timeshare.

In *United States v. Markey Granberry, Derrick Robinson, Eumora Reese, doing business as Mo' Money Taxes* (W.D. Tenn.), the district court entered an injunction in September, 2013



permanently barring the defendants from preparing tax returns for others and owning or operating a return-preparation business. We brought this injunction suit seeking to shut down Mo' Money Taxes, a Memphis-based tax-preparation chain that at one time operated as many as 300 offices in 18 states. Granberry, Robinson, and Reese encouraged Mo' Money preparers to falsely claim the earned-income credit; claim improper filing status; claim bogus education credits, improperly prepare returns using paystubs rather than employer-issued W-2 forms; fabricate bogus W-2 forms; file tax returns without customers' consent; sell false and deceptive loan products; and charge deceptive and unconscionable fees. The injunction not only bars Granberry, Robinson, and Reese from owning and operating these businesses, but also from managing, working in, controlling, licensing, or franchising a return-preparation business. In a related case, in *United States v. Toney Fields and Trumekia Shaw (Fields Mo' Money)* (M.D. Tenn), we sought an injunction to prevent Fields and Shaw from using pay stubs to prepare returns. On March 1, 2013, the court entered a permanent injunction prohibiting Fields and Shaw from preparing federal income tax returns.

In September 2014, we filed 8 suits against Walner G. Gachette, the founder of Orlando-based tax preparation company LBS Tax Services, seven LBS Tax Services franchisees, and three LBS Tax Services managers from owning, operating, or franchising a tax return preparation business and preparing tax returns for others. *LBS Tax Services cases* (M.D. Fla & S.D. Fla). According to the complaints, in 2013, LBS Tax Services operated at least 239 stores (192 owned by the named defendants) in Florida, North Carolina, South Carolina, Georgia, Texas, Tennessee, Alabama and Mississippi. LBS Tax Services prepared more than 55,000 federal income tax returns in 2013, according to our suit. According to the suits, the IRS estimates that the tax loss from the defendants' stores for the 2012 tax year alone is in the tens of millions of dollars. The complaints also requests that the court order the defendants to disgorge the fees that they obtained through their alleged fraudulent tax return preparation. In February 2015, a federal court in Orlando, Florida, permanently barred two of these managers from preparing tax returns for others and from owning or operating a tax return preparation business. The Divisions' efforts to shut down similar operations continued in 2015.

Additionally, the Division and U.S. Attorney's Offices have successfully prosecuted several enjoined promoters and preparers for criminal contempt after they violated injunctions. The Division also anticipates launching a pilot program in 2016 to ensure that preparers who have been enjoined are abiding by the courts' orders.



### Assisting with IRS Information Collection and Examinations

Individuals or businesses sometimes seek to thwart an IRS investigation by refusing to cooperate with IRS administrative summonses requesting information. When that happens, the IRS frequently asks the Tax Division to bring suit in federal court for an order to compel compliance with the summons. These judicial proceedings enable the government to obtain needed information, while also providing important procedural and substantive rights to those affected by the summons.

One key set of cases involves the IRS's audit of Microsoft Corporation's tax liabilities. The IRS hired law firm Quinn Emanuel to assist it with the audit; Microsoft cried foul, claiming that its use of Quinn Emanuel was improper. On November 20, 2015, the United States prevailed in the summons proceeding and the court entered an order enforcing summonses for testimony and documents. *United States v. Microsoft Corp.* (W.D. Wash.). The case continues, with further litigation over compliance with the summonses.

Importantly, the IRS is increasingly attempting to obtain information about United States persons who maintain undeclared foreign accounts. On December 19, 2014, a court in the Southern District of New York granted our petition to issue John Doe summonses to eight institutions, mostly delivery services and banking institutions, for information related to taxpayers that used the services of *Sovereign Management & Legal* (SML) to establish, maintain or conceal foreign accounts, assets and entities. Specifically, the IRS received permission to serve these John Doe summonses on FedEx Express, FedEx Ground, DHL, UPS, Western Union, the Federal Reserve Bank of New York, the Clearing House Payments Company LLC, and HSBC USA. The IRS uses John Doe summonses to obtain information about possible tax fraud by individuals whose identities are unknown. SML is a multi-jurisdictional offshore services provider that offers clients, among other things, the formation and administration of anonymous corporations and foundations in Panama as well as offshore entities. Related services include the maintenance and operation of offshore structures, mail forwarding, the availability of virtual offices, re-invoicing, and the provision of professional managers who appoint themselves directors of the client's entity while the client maintains ultimate control over the assets. As a result of a DEA investigation of online narcotics trafficking known as OPERATION ADAM BOMB, the IRS learned that SML was involved in assisting U.S. clients with tax evasion. During the IRS's investigation of SML's conduct, one taxpayer, making a voluntary disclosure of tax non-compliance to avoid prosecution, reported that SML helped the taxpayer form an anonymous corporation in Panama that the taxpayer used to control assets without appearing to own them. The John Doe summonses direct these eight entities to produce records that will assist the IRS in identifying U.S. taxpayers who, from the years 2005 through 2013, used SML's services in a variety of ways.

On January 28, 2013 the district court authorized issuance of a John Doe Summons to UBS for records of Wegelin's correspondent account. *United States v. Wegelin* (S.D.N.Y.). On April 29, 2013, a district court authorized issuance of a John Doe Summons to Wells Fargo for records of CIBC FirstCaribbean International Bank correspondent account. *United States v. CIBC FirstCaribbean International Bank* (N.D. Calif.). On November 7, 2013, a district court authorized the issuance of a John Doe Summons to several banks (including, Citibank NA, JPMorgan Chase Bank, National Association, The Bank of New York Mellon; HSBC Bank USA, and Bank of America) with respect to any financial accounts maintained at, monitored by, or managed through Zurcher Kantonalbank or Butterfield Bank, financial accounts maintained at, monitored by, or managed through other financial institutions that were permitted to transact client business with these banks through each bank's United States correspondent accounts at Citibank NA, JPMorgan Chase Bank, National Association; The Bank of New York Mellon; HSBC Bank USA, and the Bank of America. *John Does Summons Cases*

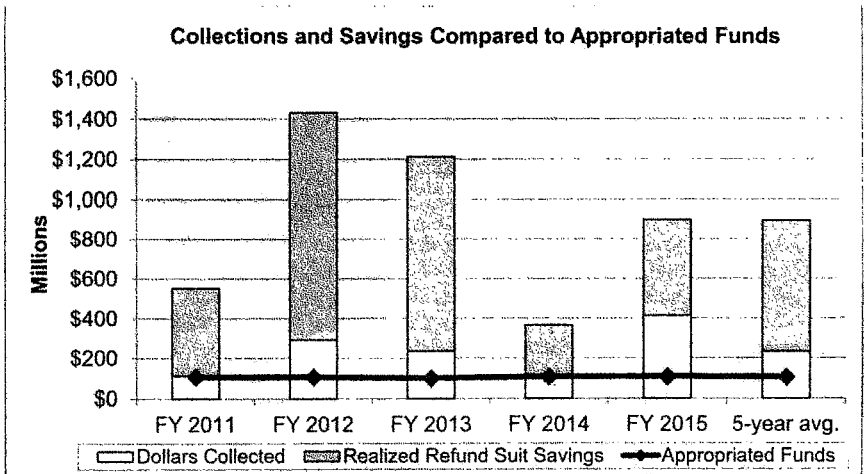


(S.D.N.Y.) Following up on this success, on September 16, 2015, a district court approved the IRS's petition to issue John Doe Summonses to Bank of America, N.A., and Citibank, N.A., for records pertaining to their correspondent accounts for Belize Bank International Limited. *John Does Summons Case* (S.D. Fla.).

In an earlier, ground-breaking petition filed in *United States v. UBS, AG* (S.D. Fla. 2008), the Tax Division successfully obtained court approval for the issuance of a John Doe summons to Swiss banking giant UBS seeking the names of U.S. account holders with undeclared accounts. The approval and issuance of the summons led ultimately to a settlement among the United States, UBS, and the Swiss government on a process leading to unprecedented disclosure of account information for accounts held by U.S. persons – a case that is still paying dividends, as described above.

### Collecting Unpaid Taxes

The Division collects unpaid tax liabilities by bringing affirmative civil litigation against delinquent taxpayers. Most of the affirmative collection suits that the Division handles are factually complex and time-consuming – debts that the IRS has been unable to collect administratively and that frequently involve fraudulent transfers of property or other unlawful attempts by taxpayers to conceal their income or assets or to delay the proceedings. Despite these difficulties, Tax Division attorneys collected over \$112 million in taxes, interest, and penalties in FY 2014. Indeed, the Division's affirmative litigation typically brings in more each year than the Division's entire budget, as illustrated by the following chart.



In FY 2008 as part of its continuing efforts to improve its post-judgment collection efforts, the Division, created a Financial Litigation Unit, which is staffed by three-to-five attorneys (some on details from other civil trial sections) and four paralegals that work under the supervision of the Office of Review.



One particularly notable collection case involved a suit for the failure to file Reports of Foreign Bank and Financial Accounts (“FBAR”). These penalties help prevent the use of offshore accounts for tax evasion. Accordingly, ensuring that the penalties are collected is an important (and growing) part of the Division’s caseload. In one important early case, we filed suit against Carl R. Zwerner to reduce to judgment FBAR penalties assessed against him for his willful failure to report his financial interest in a Swiss bank account for four years, 2004 to 2007. The IRS assessed the maximum penalty against Zwerner: 50% of the value of his account at the time of each violation. A jury in Miami found Zwerner responsible for civil penalties for willfully failing to file required FBARs for tax years 2004 through 2006. The jury, however, found that Zwerner’s failure to report the account was not willful for 2007, returning a verdict in his favor for that year. According to evidence introduced at trial, the balance of the bank account during each of the years at issue exceeded \$1.4 million. *United States v. Carl R. Zwerner* (S.D. Fla.). The Division has filed several other suits to collect FBAR penalties this year, and anticipates more in the future.

### Defending the United States

Tax cases filed *against* the United States comprise approximately 66% of the Division’s civil caseload, in terms of both the number of cases litigated and the number of attorney work hours devoted to them each year. These lawsuits include requests for tax refunds, challenges to federal tax liens, claims of unauthorized disclosure, and allegations of wrongdoing by IRS agents. The Division’s representation of the government in these defensive suits saves the Treasury hundreds of millions of dollars annually, both by retaining money that taxpayers seek to recover and also by fending off unjustified damage claims.

The Division handles a panoply of important defensive cases:

- *Cencast Svcs. L.P., et al. v. United States* (Fed. Cir.). On September 10, 2013 the Federal Circuit affirmed the favorable judgment of the Court of Federal Claims in these consolidated cases addressing whether certain payroll service providers, which provided administrative services to production companies in the motion picture industry, could treat themselves as the employers of its clients’ employees for purposes of applying the FICA and FUTA tax wage bases. If they could, that would have had the effect of reducing the employer portion of FICA and FUTA tax liability associated with workers who worked for more than one production company in a given year. In addition, the cases addressed the attempt to raise the argument that the employees were, instead, independent contractors and thus not subject to withholding. The Federal Circuit concluded that the FICA and FUTA “wage caps should be calculated by treating the employees as being in employment relationships with the common law employers,” rather than the payroll service providers. As to the independent-contractor theory, the court agreed with the lower court that the failure to raise the theory until 15 years after first learning of the potential issue was an unreasonable delay.
- *AmerGen v. United States* (Fed. Cl.). On September 17, 2013 the Court of Federal Claims granted our motion for summary judgment and denied AmerGen’s cross-motion, holding that AmerGen could not add \$1.7 billion of estimated future decommissioning costs to the cost basis of three nuclear power plants. AmerGen had purchased three plants in 1999 and 2000, and assumed the liability to decommission them in the future according to Nuclear Regulatory Commission rules. (NRC allows up to 60 years for decommissioning.) AmerGen estimated the cost to meet that liability to be \$1.7 billion (in 1999 and 2000 dollars). AmerGen sought to add that estimate to its cost basis in the plants as of the acquisition dates, and take additional



depreciation and goodwill amortization deductions based on that inflated basis. The court agreed with us that: (i) § 461(h) applies throughout the Code to determine when liabilities are “incurred,” including when they may be added to acquisition cost basis; (ii) the economic performance requirement was not met for the future decommissioning liabilities as of the plant acquisition dates; (iii) even if § 461(h) were ambiguous, the regulations apply the three-pronged all-events test to acquisition cost basis timing determinations; and (iv) even if the regulations were ambiguous, the court would defer to the government’s interpretation of them. On March 11, 2015, the Federal Circuit affirmed the favorable judgment of the Court of Federal Claims, agreeing that the plain language of the statute controls, and that AmerGen’s argument would effectively circumvent the statutory scheme.

- ***Crawford et al. v. United States*** (S.D. Ohio). In this suit, several plaintiffs, including Senator Rand Paul, are challenging the constitutionality of FBAR penalties and the operation of the new Foreign Account Tax Compliance Act (FATCA). FATCA is designed to require foreign financial institutions to report the financial activity of U.S. taxpayers at the institution in order to detect and deter offshore tax evasion. The plaintiffs asked for a preliminary injunction to block FATCA’s implementation, but the court denied their motion on September 29, 2015. Our motion to dismiss the case is pending.

There are four groups of cases that have been filed with respect to the IRS’s handling of applications for section 501(c) tax-exempt status: (1) damage/injunction actions; (2) challenges under the Administrative Procedure Act (APA); (3) Freedom of Information Act (FOIA) actions; and, (4) allegations of wrongful disclosure.

- **Damages/Injunctive Relief.** Four cases in which plaintiffs seek injunctive relief and damages against the United States in various forms are: *Linchpins of Liberty et al. v. United States et al.* (D.D.C. – D.C. Cir.), *NorCal Tea Party Patriots v. IRS et al.* (S.D. Ohio–6th Cir.), *True the Vote, Inc. v. IRS et al.* (D.D.C. – D.C. Cir.), and *Freedom Path, Inc. v. Lerner et al.* (S.D. Tex). In *NorCal*, the Government’s motion to dismiss was partially granted, and the district court thereafter certified the class. The United States has filed a petition for writ of mandamus regarding a pre-certification discovery order regarding the compelled disclosure of certain tax return information, which is scheduled to be argued before the Sixth Circuit in March 2016, and discovery is commencing, including class action discovery and depositions of IRS personnel. On October 23, 2014, the district court dismissed claims in *True the Vote* and *Linchpins*, both stemming from the IRS’s alleged targeting of tax-exempt status applications based on the applicants’ viewpoints, seeking (1) declaratory and injunctive relief under the APA and/or directly under the Constitution, (2) a determination of tax-exempt status for plaintiffs that had pending applications under section 501(c)(3), (3) damages for the alleged unauthorized collection of return information, and (4) *Bivens* damages against individually named IRS employees. The court dismissed the claims for declaratory and injunctive relief as moot on the ground that the IRS no longer is engaging in the practices that served as the bases for the plaintiffs’ claims, having suspended its use of its “BOLO” list among other changes. It also largely dismissed as moot plaintiffs’ claims for a determination of tax-exempt status because most of the applications had been granted. The court allowed plaintiffs to litigate the applications that remained pending, but only on the administrative record. Next, the court ruled that plaintiffs failed to state a claim based on the IRS’s collection of information, because the Internal Revenue Code does not restrict the collection of return information, only the unauthorized inspection and/or disclosure of it. Finally, the court dismissed the *Bivens* claims against the individually named IRS employees, because circuit precedent does not permit



creating a *Bivens* remedy against those defendants. Both *True the Vote* and *Linchpins* are on appeal to the U.S. Court of Appeals for the D.C. Circuit.

- APA. The plaintiff in *Z Street v. Koskinen* (D.D.C. - D.C. Cir.) claims that the IRS was discriminating against its application for tax-exempt status under an alleged “Israel special policy,” in violation of the First Amendment. The district court denied our motion to dismiss, which asserted that, *inter alia*, the suit was barred by the Anti-Injunction Act or the Declaratory Judgment Act. We sought and received an interlocutory appeal, and on June 19, 2015, the D.C. Circuit affirmed the district court’s decision.
- FOIA. Various plaintiffs have filed suits under FOIA seeking documents relating to the IRS’s selection and examination of section 501(c) applications: *Tea Party Patriots, Inc. v. IRS & Dep’t of Treasury* (D.D.C.), *Republican Nat’l Committee v. IRS* (D.D.C.), *Cause of Action v. IRS*, No. 1:13-cv-00920 (D.D.C.), *Cause of Action v. TIGTA* (D.D.C.), *Cause of Action v. IRS*, No. 1:14-cv-00178 (D.D.C.), *Cause of Action v. IRS et al.*, No. 1:14-cv-1407 (D.D.C.), *Judicial Watch, Inc. v. IRS*, No. 13-cv-1559 (D.D.C.), *Judicial Watch, Inc. v. IRS*, No. 13-cv-1759 (D.D.C.), *Judicial Watch v. IRS*, No. 14-cv-1039 (D.D.C.), *Judicial Watch v. Department of Justice* (D.D.C.), and *Citizens for a Strong New Hampshire v. Internal Revenue Service*, No. 14-cv-487 (D.N.H.).
- Wrongful Disclosure. There have been three damages suits filed based on the IRS’s alleged wrongful disclosure of return information: *Citizen Awareness Project v. IRS* (D. Colo.), *Freedom Path v. IRS* (S.D. Tex), and *National Organization for Marriage (NOM) v. IRS* (E.D. Va.). The district court largely granted our motion for summary judgment in *CAP*, except for a minimal amount of actual damages allegedly resulting from the disclosure. Trial on the actual damages claim is set to occur later this year. In *NOM*, the district court dismissed the claim for punitive damages, and the Government settled the claim for actual damages. The parties then litigated the only remaining issue – plaintiff’s claim for approximately \$700,000 in attorneys’ fees, with the district court denying plaintiff any fees. *NOM* has appealed the denial of attorneys’ fees to the U.S. Court of Appeals for the Fourth Circuit. In one count of a several-count complaint seeking damages, *Freedom Path* alleges that the IRS violated § 6103, first, by releasing to ProPublica a copy of its pending Application for Exemption, and, second, by performing unauthorized inspections of tax return information produced by *Freedom Path* in response to the IRS’s requests for additional information, and by unspecified additional unauthorized disclosures. We admitted *Freedom Path* is entitled to \$1,000 in statutory damages for the disclosure to ProPublica, but denied the remainder of the claims. We also moved to dismiss the second category of allegations, contending that *Freedom Path* failed to state sufficiently detailed factual allegations to raise a right to relief above the speculative level, and that § 7431 does not authorize a claim for inspection of information that *Freedom Path* submitted to the IRS voluntarily. On February 24, 2015, the court granted our motion to dismiss on the failure to plead sufficiently grounds, but did not address our arguments on the merits. *Freedom Path*’s claim for actual and punitive damages is pending.

The Freedom From Religion Foundation, Inc., which advocates atheism and the separation of church and state, has challenged special preferences purportedly enjoyed by tax-exempt religious organizations. In *Freedom From Religion Foundation, Inc. v. Lew* (7th Cir.), the Foundation and its individual co-presidents assert that the tax exemption under section 107(2) for a rental allowance paid to a “minister of the gospel” as part of his compensation, violates the Establishment Clause of the First



Amendment. The district court agreed, and rejected our argument that the Foundation and its individual co-presidents lacked standing to sue. We appealed, and the U.S. Court of Appeals for the Seventh Circuit reversed, holding that the plaintiffs lacked standing. In *Freedom From Religion Foundation, Inc. v. Koskinen, et al.* (W.D. Wisc.), the Foundation alleged that the IRS has a policy of declining to enforce the Internal Revenue Code's electioneering ban against churches and other religious organizations, and sought to enjoin the IRS from following that policy. Early in pre-trial discovery, the Foundation agreed to dismiss the action without prejudice, which the court did. Several third parties have since claimed there must be some private "settlement" between the IRS and Foundation regarding how the IRS will enforce the electioneering ban. There is no such agreement. In *Freedom From Religion Foundation, et al. v. Koskinen* (W.D. Wis.), the district court, on December 17, 2014 and after the 7th Circuit's decision above, dismissed plaintiffs' complaint for lack of standing. Plaintiffs had alleged that the IRS violated the Establishment Clause and equal protection principles by requiring it to prepare and file IRS Form 990 to maintain its tax exempt status under 26 U.S.C. § 501(c)(3), whereas some churches are statutorily exempt from filing any form.

Finally, although they are not strictly tax-related, the Division represents the United States in suits for recovery of payments under § 1603 of the American Recovery and Reinvestment Act of 2009. Section 1603 provides for a payment in lieu of a tax credit for certain alternative energy projects. In one case, the plaintiff contends that although the Treasury has already paid out about \$400 million, it owes another \$200 million. *Desert Sunlight 300, LLC v. U.S. Dep't of Treasury* (D.D.C.).

### **Protecting the Government's Interest in Tax-Related Bankruptcy Litigation**

Division attorneys have also handled a number of tax-related bankruptcy matters, including:

- *In re Wyly* (N.D. Tex.). These cases are two consolidated bankruptcy cases, one by Samuel Wyly, the other by Caroline D. Wyly, the widow of Charles Wyly. The Wyllys are challenging their liability for more than \$2 billion in tax, penalty, and interest. Sam and Charles Wyly created a number of Isle of Man trusts, each of which owned subsidiary companies. The Wyllys held considerable stock options and warrants in several companies, and they transferred the options and warrants to the offshore companies and trusts in exchange for private annuities. After the transfers were complete, they disclaimed beneficial ownership of the securities in SEC filings, even while the offshore trusts and companies exercised the options and warrants. In addition to violating securities disclosure laws, they failed to report income from the assets held by the trusts or report to the IRS their interest in the trusts. The case is being tried in January 2016.
- *In re William M. (Trip) Hawkins, III* (N.D. Cal. – 9th Cir.). In a divided published opinion, the Ninth Circuit reversed the district court's affirmance of the favorable bankruptcy court opinion determining the debtor's taxes to be nondischargeable for his willful attempt to evade or defeat them under 11 U.S.C. § 523(a)(1)(C). The debtor invested in FLIP and OPIS shelters to offset \$66 million in gains from the sale of his stock in video game company Electronic Arts, Inc., which he had co-founded. After the IRS commenced an audit of his shelter losses and announced that it was disallowing losses from similar shelters, the debtor continued to spend vast sums on a private jet, vacations, homes, cars, and his new company, 3DO, which failed. The bankruptcy court determined that the taxes arising from disallowance of the losses were nondischargeable, based on the debtor's "truly exceptional" expenditures, and statements by his attorney acknowledging the liabilities and expressing the debtor's intention to discharge them in



bankruptcy rather than to pay them. The district court affirmed. The Ninth Circuit held that a specific intent to evade taxes is required in order to demonstrate a willful attempt to evade or defeat taxes under 11 U.S.C. § 523(a)(1)(C). The court based its decision on comparable language in 26 U.S.C. § 7201, the felony tax evasion statute. The court acknowledged that its view differed from that of other circuits, which do not require specific intent in interpreting the § 523(a)(1)(C) exception. The court remanded the case for further proceedings.

- ***Ana DeBeck v. United States v. Dr. Robert Beck, et al.*** (W.D. Tex.). The court entered a judgment, findings of fact, and conclusions of law, after a March 2014 bench trial, holding that the taxpayer, Dr. Robert Beck, is the owner of a 108-acre ranch in San Antonio titled in the name of JB Vega Corporation (Beck's alter ego), which is encumbered by our tax liens. At trial, Beck invoked the Fifth Amendment and declined to answer our questions. Byron Davenport, the purported owner of JB Vega, did not list his ownership of JB Vega as an asset on a financial statement he had recently submitted to the VA. Also, Davenport testified at trial that he agreed that the ranch could be sold to pay Beck's taxes. The court also found that Beck, not his wife's company, AGB, another Beck alter ego, was the true owner of Beck's dental practice, and that the IRS levy on AGB's account was not wrongful. The court also allowed us to add another \$400,000 of Beck's income tax liabilities, based on recent returns filed by Beck, to our judgment, bringing the judgment amount to approximately \$4 million. Between the March trial, and the entry of the judgment by the district court, Beck filed a Chapter 13 bankruptcy, which we were successful in having dismissed with prejudice as a bad faith filing, with a two-year injunction against refiling.
- ***United States v. Philip Hart (In re Hart)*** (Bankr. D. Idaho). On September 2, 2014, the bankruptcy court clarified when settlements must be made public in a bankruptcy case. We filed a foreclosure suit against Philip L. Hart, a former Idaho state legislator and tax defier. He filed Chapter 13 bankruptcies twice and a Chapter 7 bankruptcy. In the Chapter 7 case, we objected to Hart's discharge and sought a determination that his tax liabilities were not dischargeable. After the adversary proceeding was filed, the district court granted partial summary judgment to the United States in the foreclosure suit. The parties held a settlement conference before a magistrate judge and reached an agreement. One term was that the settlement be kept confidential until Hart had an opportunity to file a motion to seal the agreement before the bankruptcy court. However, we opposed Hart's motion. The bankruptcy court denied Hart's motion. It noted first that settlements between creditors and a debtor in a chapter 7 case ordinarily do not require court review, because they are not settlements with a "trustee" under Rule 9019. However, the court found that because the settlement would waive our section 727 claim against Hart, it was required to be transmitted to all of the other creditors in the case. Furthermore, the court found that Hart had failed to present a "compelling reason" that would override the presumption that filings in federal court are to be open to public access, so it declined to seal the settlement.

## B) Appellate

### Civil Appellate Cases

During FY 2015, the Appellate Section litigated approximately 500 tax appeals before the United States Courts of Appeals and a variety of state appellate courts, and won (in whole or in part) over 94% of taxpayer appeals and over 61% of Government appeals. Included among these cases are a diverse set



of victories in the Supreme Court. In *Woods v. United States*, the Supreme Court unanimously reversed the unfavorable decision of the Fifth Circuit in this Son-of-BOSS tax shelter case, rejecting the so-called *Heasley* rule adopted by the Fifth and Ninth Circuits, that the 40-percent penalty for “gross valuation misstatements” was inapplicable as a matter of law to a transaction that was disregarded for lack of economic substance. The Court also held that, contrary to the decisions of the D.C. and Federal Circuits, that there was jurisdiction in a partnership level proceeding to determine the applicability of a gross-valuation misstatement penalty because the economic substance determinations and a partner’s basis misstatement as part of the Son-of-BOSS transaction are inextricably intertwined. Both aspects of the *Woods* opinion have had a significant impact, particularly in other tax-shelter litigation.

The Supreme Court also handed down a unanimous favorable opinion in *United States v. Quality Stores*. There, the Court reversed the Sixth Circuit’s decision, holding that severance payments are “wages” subject to tax under the Federal Insurance Contributions Act (FICA), which impacted more than 2,400 refund claims then outstanding worth more than \$1 billion in total.

In *United States v. Michael Clarke*, the Supreme Court again issued a unanimous favorable opinion, reversing the Eleventh Circuit’s judgment, based on circuit precedent, that an unsupported allegation that the IRS issued a summons for an improper purpose entitles an opponent of the summons to an evidentiary hearing to question IRS officials about their reasons for issuing the summons. The Supreme Court brought the Eleventh Circuit in line with every other court of appeals by rejecting its categorical rule, and setting forth a standard under which the taxpayer must “point to specific facts or circumstances plausibly raising an inference of bad faith.”

Finally, the Supreme Court recently denied a petition for writ of *certiorari* from the Second Circuit’s favorable decision in *TIFD III-E v. United States*. This case was the third appeal stemming from G.E. Capital’s implementation of a marketed tax shelter that allowed it to effectively re-depreciate fully depreciated aircraft and thereby shelter \$300 million from tax. The Second Circuit found that G.E. Capital lacked a reasonable basis for its return position and determined that an accuracy-related penalty for negligence applied.

At the court of appeals level, Appellate won a series of important victories in intermediary tax shelter cases, in which, as a general matter, a taxpayer, who owns a company holding property with a large built-in tax liability, sells his shares to an intermediary that pays the taxpayer a premium for the shares, immediately sells the corporate property, and then dissolves the company without paying the resulting liability. In *Diebold Foundation v. Commissioner*, the Second Circuit vacated the unfavorable decision of the Tax Court that taxpayers participating in such a transaction could not be held liable, and remanded the case to address whether taxpayers had constructive knowledge of the overall scheme, which would result in the transaction being recharacterized as a liquidation and distribution under state law (and would subject taxpayers to liability as transferees). The Ninth Circuit held in another intermediary shelter case that the taxpayers had constructive knowledge of the shelter, as necessary to establish their liability as transferees under state law. *Salus Mundi v. Commissioner* (9th Cir.). The Ninth Circuit also reversed an unfavorable judgment in *Slone v. Commissioner*, holding that the lower court had incorrectly applied the substance-over-form doctrine in evaluating the intermediary tax shelter at issue. In *Feldman v. Commissioner*, the Seventh Circuit became the first circuit to recognize that the purported stock sale at the heart of an intermediary tax shelter was, in substance, a liquidation, making the former shareholders transferees of the corporation.



Appellate successfully defended several significant victories relating to other types of tax shelters as well. In *Humboldt Shelby Holding Corp. v. Commissioner*, the Second Circuit affirmed a Tax Court ruling regarding a Son-of-BOSS tax shelter, which involved a claimed loss of \$74 million and a \$10 million accuracy-related penalty. The Second Circuit agreed that the transaction lacked economic substance because the potential profit (\$510,000) was insubstantial compared to the guaranteed tax loss in excess of \$70 million (which would generate a tax benefit of \$25 million) created by the shelter. In *Kearney Partners, LLC v. United States*, the Eleventh Circuit affirmed a favorable district court decision involving an abusive basis-inflating tax shelter, known as FOCus (Family Office Customized Partnership), marketed by KPMG to high net-worth individuals. The Eleventh Circuit affirmed the district court's determination that the FOCus shelter was motivated by tax avoidance, and that there was no reasonable probability of making profits from any step of the transaction.

Other significant victories include *Ford Motor Co. v. United States*, in which the Sixth Circuit, on remand from the Supreme Court, affirmed the favorable judgment of the District Court denying taxpayer's claim for \$450 million in additional overpayment interest. The Sixth Circuit held that deposits remitted by taxpayer and subsequently converted into tax payments bore overpayment interest only from the date of conversion (rather than from the earlier date of remittance, as taxpayer argued). In *Florida Bankers Association v. United States Department of the Treasury*, the D.C. Circuit issued a favorable opinion dismissing a challenge to Treasury regulations requiring U.S. banks to report the amount of interest earned by account holders residing in foreign countries or be subject to a penalty. Plaintiffs contended that the regulations, promulgated in 2012 in furtherance of the Foreign Account Tax Compliance Act, violate the Administrative Procedure Act and the Regulatory Flexibility Act principally on account of the purported harm the regulations will do to banks. Although the District Court had granted summary judgment to the Government on the merits of this challenge, the D.C. Circuit affirmed on the alternative ground that the Anti-Injunction Act applied to bar this suit. In *Maimonides Medical Center v. United States*, the Second Circuit affirmed the District Court's favorable judgment that the interest rate applicable to tax overpayments by corporations applies to non-profit corporations. This was an issue of first impression in the courts of appeals, and hundreds of cases presenting this issue remain pending administratively. Lastly, in *Chemtech Royalty Associates LP v. United States*, the Fifth Circuit rejected The Dow Chemical Company's effort to claim over \$1 billion in income tax deductions from a long-running tax shelter, and reversed the denial of the 40% penalty in light of the previously discussed Supreme Court opinion in *Woods*.

### **C) Criminal Prosecutions and Appeals**

**During FY 2015, Division prosecutors obtained 95 indictments and 131 convictions (not including the additional criminal tax prosecutions handled exclusively by United States Attorneys' Offices). The conviction rate for cases brought by Tax Division prosecutors for FY 2015 was nearly 98%.**

### **Enforcing U.S. Tax Laws in Today's Global Economy**

For the Tax Division's criminal enforcement sections, one of the top litigation priorities is identifying, investigating and holding accountable U.S. taxpayers who conceal foreign financial accounts in an effort to evade U.S. reporting and tax obligations. Use of foreign tax havens by U.S. taxpayers has been on the rise, aided by increasingly sophisticated financial instruments and the ease of



moving money around the globe, irrespective of national borders. While the Division's enforcement focused initially on cross-border activities in Switzerland, it has expanded to include wrongdoing by U.S. accountholders, financial institutions, and other facilitators globally, including publicly disclosed enforcement concerning banking activities in India, Israel, Liechtenstein, Luxembourg, Belize, and the Caribbean.

### **Offshore Tax Evasion**

According to a 2008 report issued by the Permanent Subcommittee on Investigations, Committee on Homeland Security and Government Affairs, United States Senate, the use of undeclared offshore accounts to evade U.S. taxes at that time cost the Treasury at least \$100 billion annually. Using tax havens facilitates evasion of U.S. taxes and related financial crimes, and fosters the perception that, if people have enough money and access to unscrupulous professionals, they can get away with hiding money offshore. Thanks to the considerable and highly publicized efforts of the Tax Division and the IRS, reality has caught up with those who have chosen to engage in this illegal behavior.

Since 2009, when the Tax Division reached a ground-breaking deferred prosecution agreement with UBS AG, Switzerland's largest financial institution, the Department has publicly charged over 100 accountholders and approximately 42 bankers and advisors with violations arising from offshore banking activities. Over 100 accountholders have pleaded guilty or been convicted at trial, and several are either awaiting trial or in fugitive status. Approximately 14 bankers and financial advisors have either pleaded guilty or been convicted at trial; many remain fugitives.

The prosecution of professionals, including lawyers, financial advisors, and return preparers, who facilitate offshore tax evasion is an essential part of the Tax Division's efforts in this area. In December 2014, the Tax Division secured convictions against David and Nadav Kalai, two California tax return preparers, for conspiracy to defraud the IRS and willfully failing to file a Report of Foreign Bank and Financial Accounts (FBAR). The Kalais prepared false individual income tax returns that did not disclose their clients' foreign financial accounts and did not report the income earned from those accounts. In order to conceal their clients' ownership and control of assets and to conceal their clients' income from the IRS, the Kalais incorporated offshore companies in Belize and elsewhere and helped clients open secret bank accounts at the Luxembourg locations of two Israeli banks.

Efforts to combat offshore tax evasion have also focused on bankers and investment advisors who enable U.S. taxpayers to hide their money abroad. In September and October 2014, three investment advisors were sentenced to prison following their guilty pleas to conspiracy to launder monetary instruments. Joshua Vandyk and Eric St-Cyr were employed by an investment firm in the Cayman Islands, and Patrick Poulin was an attorney in Turks and Caicos who represented U.S. citizens. Vandyk, St-Cyr and Poulin conspired to conceal and disguise the nature, location, source, ownership and control of property believed to be the proceeds of bank fraud, specifically \$2 million. The defendants assisted undercover law enforcement agents posing as U.S. clients in laundering purported criminal proceeds through an offshore structure designed to conceal the true identity of the proceeds' owners. Vandyk and St-Cyr invested the laundered funds on the clients' behalf and represented that the funds would not be reported to the U.S. government.

The Tax Division also remains committed to holding foreign banks accountable for their role in facilitating attempts to evade U.S. tax and reporting obligations. Since announcing the UBS deferred prosecution agreement in February 2009, the Tax Division has continued to investigate this activity, and,



as described below, has taken public action against other financial institutions and external asset management firms.

In February 2012, Wegelin Bank, the oldest private bank in Switzerland, was indicted for conspiracy to defraud the United States for actions arising from its efforts on behalf of U.S. account holders. Wegelin Bank pleaded guilty to felony tax charges (and was the first foreign bank to do so) in January 2013, and was ordered to pay approximately \$58 million to the United States and to forfeit funds in the amount of \$16.2 million previously seized by the government from a correspondent account in the United States, for a total recovery to the United States of approximately \$74 million.

In July 2013, the Department announced that Liechtensteinische Landesbank AG, a bank based in Vaduz, Liechtenstein ("LLB-Vaduz"), agreed to pay more than \$23 million to the United States and entered into a non-prosecution agreement. As noted in the agreement, before the government began the investigation, LLB-Vaduz voluntarily implemented a series of remedial measures to stop servicing U.S. account holders with undeclared accounts. The bank also assisted in changing the law in Liechtenstein retroactively, which enabled the Division to obtain account files of non-compliant U.S. account holders without having to identify each account holder whose information was requested.

In May 2014, Credit Suisse AG pleaded guilty to conspiracy to aid and assist U.S. taxpayers in filing false income tax returns and other documents with the IRS. The guilty plea was the result of a years-long investigation by U.S. law enforcement authorities that also produced indictments of eight Credit Suisse executives since 2011; two of those individuals have pleaded guilty so far. The plea agreement, along with agreements made with other federal and state agencies, provides that Credit Suisse will pay a total of \$2.6 billion – \$1.8 billion to the Department of Justice for the U.S. Treasury (as restitution for lost tax revenue), \$100 million to the Federal Reserve, and \$715 million to the New York State Department of Financial Services. Earlier this year, Credit Suisse paid approximately \$196 million in disgorgement, interest and penalties to the Securities and Exchange Commission (SEC) for violating the federal securities laws by providing cross-border brokerage and investment advisory services to U.S. clients without first registering with the SEC.

Also in May 2014, the Department of Justice entered into a non-prosecution agreement with Swisspartners Investment Network AG, a Swiss-based asset management firm, and three of its wholly-owned subsidiaries (collectively, the Swisspartners Group). As part of the agreement, the Swisspartners Group admitted that it knew certain U.S. taxpayers were maintaining undeclared foreign bank accounts with the assistance of the Swisspartners Group in order to evade their U.S. tax obligations, in violation of U.S. law. The Swisspartners Group acknowledged that it helped certain U.S. taxpayer-clients conceal from the IRS their beneficial ownership of undeclared assets maintained in foreign bank accounts by, among other things, creating sham foundations and other sham entities that served as the nominal account holders; placing accounts or insurance policies in the names of non-U.S. nationals; facilitating the transportation of large amounts of cash into the United States on behalf of U.S. taxpayer-clients; and arranging for the bulk deposit of cash at Swiss depository financial institutions on behalf of U.S. taxpayer-clients. As a condition of the non-prosecution agreement, the Swisspartners Group agreed to pay a fine of \$4.4 million.

In December 2014, Bank Leumi, a major Israeli international bank, admitted that it conspired to aid and assist U.S. taxpayers to prepare and present false tax returns to the IRS by hiding income and assets in offshore bank accounts in Israel and elsewhere around the world. A deferred prosecution agreement between Bank Leumi Group and the Department of Justice required the bank to pay \$270



million to the United States, provide the names of more than 1,500 of its U.S. account holders, and cooperate with related ongoing investigations. This unprecedented agreement marks the first time an Israeli bank has admitted to such criminal conduct which spanned over a 10 year period and included an array of services and products designed to keep U.S. taxpayer accounts concealed at Bank Leumi Group's locations in Israel, Switzerland, Luxembourg and the United States.

In addition to these public actions, the Tax Division has ongoing criminal investigations concerning the cross-border activities of banks and U.S. account holders, as well as bankers and other professionals who facilitated U.S. tax evasion and reporting violations.

The high profile prosecutions of financial institutions, facilitators, and accountholders created pressure on non-compliant taxpayers to correct their tax returns to report previously undisclosed accounts. According to the IRS, since the inception of the investigation against UBS, over 54,000 taxpayers have reported previously secret accounts through the IRS's offshore voluntary disclosure programs, and have paid over \$8 billion in back taxes, interest, and penalties. These enforcement efforts not only remedy past wrongdoing, but also bring into the system tax revenue from taxpayers who become compliant going forward.

The Department is also successfully using a variety of law enforcement tools to gather information that we believe will lead to admissible evidence in future enforcement efforts. For example, in recent years the Department obtained orders authorizing the issuance of John Doe summonses for information about U.S. taxpayers using accounts based in Switzerland, India, Bahamas, Barbados, Cayman Islands, Guernsey, Hong Kong, Malta, Belize, and the United Kingdom. The Tax Division continues to work with the IRS and the United States Attorneys' Offices to gather information about taxpayers who seek to avoid or evade our tax loss.

### **Swiss Bank Program**

The investigation and prosecution of offshore tax evasion requires the IRS and the Tax Division to obtain foreign evidence, most often through a tax information exchange agreement or a mutual legal assistance or other treaty. A fundamental issue with respect to obtaining information about accounts located in Switzerland has been the degree to which Swiss law permits disclosure under the Convention between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income, signed on October 2, 1996. Swiss banks often contend, in response to our investigations, that Swiss law prohibited meaningful cooperation (most notably, the disclosure of the names of bank employees and of U.S. accountholders). As part of our efforts to obtain information from these banks, the Department and the IRS engaged in a series of discussions with representatives of the Swiss government. Our central focus in these discussions was to obtain information from the banks that would serve our law enforcement goals of encouraging voluntary disclosure and compliance by U.S. account holders, prosecuting account holders who fail to come forward and into compliance, and identifying the methods by which, and jurisdictions in which, U.S. taxpayers sought to conceal foreign accounts and evade their U.S. tax obligations. We also sought to maintain the integrity of pending U.S. law enforcement matters and the ability to prosecute those persons who assisted U.S. taxpayers in evading the law.

On August 29, 2013, the Department announced the Program for Non-Prosecution Agreements or Non-Target Letters for Swiss Banks (the "Program"), which is designed to encourage Swiss banks, about which the Department had little or no information, to come forward, disclose conduct and account



information related to U.S. offshore accounts, and to cooperate with our ongoing offshore enforcement efforts in exchange for the possibility of a non-prosecution agreement. The Program expressly excludes the fourteen banks, referred to in the Program as "Category 1 banks," that were authorized for investigation in connection with their Swiss banking activity related to U.S. account holders before the Program was announced. Second, the Program expressly excludes all individuals. No Swiss banker or professional advisor is offered any sort of protection or immunity, and no U.S. account holder is covered by the Program.

The Program established three additional categories of eligibility. Category 2 banks are Swiss banks that were not under investigation as of the date the Program was announced but believe they have committed tax-related offenses. Category 2 banks must provide detailed information regarding their cross-border activities, employees and representatives, and U.S.-related accounts, and are required to pay a penalty that can be mitigated if the bank establishes that a particular account was declared or has come into compliance through the IRS offshore voluntary disclosure programs. Category 3 and 4 banks are Swiss banks that did not commit any violations of U.S. law but seek a non-target letter after providing information required under the Program. These banks were allowed to request participation in the Program starting on July 1, 2014. In 2015, the Tax Division focused on the Category 2 banks, and it will address Category 3 and 4 banks in 2016.

The Tax Division received 106 Letters of Intent (out of approximately 330 banks in Switzerland) before the December 31, 2013, deadline for Category 2 banks. The Department had little or no information regarding a significant number of these banks prior to receipt of the Letters of Intent. These banks were required to fully disclose their cross-border businesses relating to U.S. taxpayers by providing documents and making in-person presentations to the Tax Division by the end of June 2014 (which included a 60-day extension that was requested by each bank). Thereafter, it was anticipated that the parties would execute non-prosecution agreements and that the Tax Division would begin making requests under the U.S.-Swiss tax treaty for account information. This process was delayed as a result of the reluctance of many banks to adequately disclose their conduct. This issue was resolved, and the Program moved forward.

Since January 2014, approximately two dozen banks have withdrawn from the Program for a variety of reasons. For example, some banks submitted a protective letter of intent prior to December 31, 2013, and withdrew from the Program after their internal investigations uncovered no illegal conduct. Others banks withdrew because they ceased operations. To the extent a bank is outside the Program and has engaged in criminal conduct, the Tax Division is considering all available options on a case-by-case basis.

On March 30, 2015, with the signing of the first non-prosecution agreement with BSI, SA, the Department announced its goal to reach final resolutions by the end of 2015 with banks eligible for non-prosecution agreements under Category 2 of the Program. As of December 31, 2015, the Department had signed 75 agreements with 77 Category 2 banks and proposed agreements to the few remaining Category 2 banks. All remaining agreements were signed in January 2016, including an agreement with Union Bancaire Privée, UBP SA, imposing a penalty of \$187 million, the second largest penalty to date. In total, the Department has imposed more than \$1.3 billion in penalties under the Program.

The Tax Division also has submitted more than 150 treaty requests to Switzerland covering 31 different banks, and continues to submit requests as additional information is received. These treaty requests are being submitted under the current 1996 U.S.-Swiss tax treaty under which the Swiss will grant assistance only in cases where the information is sought because of tax fraud, as that term is



narrowly interpreted by Swiss legal authorities. A new Protocol amending the 1996 tax treaty was signed but has been stalled in the Senate for several years. Once the Protocol is ratified, Switzerland will begin granting assistance in cases where the information is foreseeably relevant to a civil or criminal tax investigation. The “foreseeably relevant” standard is far more lenient and would result in hundreds of, if not more than one thousand, successful treaty requests.

The Swiss are responding promptly to the tax treaty requests that we are submitting under the 1996 treaty. To date, the Tax Division has received more than 85 responses to the treaty requests. The Tax Division is working closely with the IRS to review the information received in response to the treaty requests and from the banks in the Program, as well as from whistleblowers and cooperators, to pursue investigations against individual accountholders, bankers and other facilitators, both within and beyond Switzerland. The Tax Division believes that these investigations will result in a number of criminal prosecutions in the coming months.

### **Pure Tax Crimes**

Legal-source income tax cases are the core of the Tax Division’s criminal enforcement mission. These cases encompass tax crimes where the source of the individual’s income is earned through legitimate means, and the examples are legion: a restaurateur who skims cash receipts; a corporation that maintains two sets of books, one reporting its true gross receipts and the other – used for tax purposes – showing lower amounts; a self-employed individual who hides taxable income or inflates deductible expenses to reduce the amount of tax due and owing; or, an individual who, although aware of the duty to file a return, knowingly and intentionally refuses to do so.

The focus on legal-source income cases is important because tax crimes of this type significantly erode the tax base and, when such conduct is left unaddressed, have the potential to encourage tax cheating by otherwise law-abiding citizens. Prosecutions in these cases often receive substantial local media coverage, and convictions assure law-abiding citizens who pay their taxes that those who cheat are punished. During the past year, Tax Division attorneys investigated and prosecuted cases involving tax crimes committed by individuals from all walks of life.

In March 2015, Paul DiLorenzo, a doctor in New Jersey, was sentenced to 46 months in prison and ordered to pay restitution to the IRS in the amount of \$304,293 following his guilty plea to structuring cash transactions and filing false tax returns. Between 2009 and 2010, DiLorenzo received more than \$2 million in cash payments from his patients. His office received payments exceeding \$10,000 in a single day on at least 35 occasions. DiLorenzo deposited \$1 million in cash into banks accounts in his name and in the name of his business. The deposits included 150 separate transactions, all but one for less than \$10,000, thereby evading Currency Transaction Report filing requirements. DiLorenzo also substantially understated his business income on his 2010 and 2011 tax returns.

In the Eastern District of Michigan, multiple defendants were sentenced to prison in July 2015 for their role in a tax fraud scheme involving a chain of pizza franchises in Michigan, Ohio, and Illinois. Happy Asker, the founder of Happy’s Pizza, was sentenced to 50 months in prison and ordered to pay \$2.5 million in restitution after a jury in the Eastern District of Michigan convicted him of conspiracy to defraud the United States, filing and aiding in the filing of false tax returns, and corruptly endeavoring to obstruct the IRS. Asker conspired with franchise owners and employees to divert more than \$6.1 million in gross receipts from 35 pizza stores. In total, Asker and certain employees and franchise owners failed to report approximately \$3.84 million of gross income and approximately \$2.39 million in



payroll taxes from the various Happy's Pizza franchises to the IRS. Four co-conspirators also pleaded guilty for their role in the scheme.

Following one of the Tax Division's trial victories in 2015, Thomas Jackson and Preston Harrison, the co-founders of a company that manufactured a product called OXY water, were sentenced to prison for wire fraud, money laundering, and tax crimes. Jackson and Harrison developed OXY water, a beverage that they claimed was an all-natural, vitamin-enhanced sports drink that contained added oxygen for improved physical performance. They engaged in a scheme to deceive investors about the company's finances, and misappropriated approximately \$2 million in investors' funds for their own personal use, including purchasing jewelry, luxury vehicles, weapons, clothing, home improvements, and a swimming pool. Harrison and his wife, Lovena Harrison, who was also charged, diverted a portion of the funds into an account in the name of a day care business and failed to report this income on their 2011 tax return. In August and October 2015, Jackson and Preston Harrison were each sentenced to 83 months in prison. Lovena Harrison received a sentence of 12 months and one day in August. Preston Harrison was also ordered to forfeit \$1.1 million.

In January 2016, Albert Hee, a Honolulu businessman, was sentenced to 46 months in prison and ordered to pay restitution to the IRS in the amount of \$431,793, following his conviction in July of corruptly endeavoring to obstruct the IRS and filing false individual income tax returns for the years 2007-2012. Hee caused his company to pay more than \$2 million of his personal expenses, including vacations, massages, and college tuition for his children, falsely claimed these expenditures as business expenses on the corporate tax returns, and failed to report the payments as income on his personal tax returns.

### **Employment Tax Crimes**

During FY 2015, the Tax Division sharpened its focus on employers who willfully fail to collect, truthfully account for, and pay over employment taxes to the IRS. Employers have a legal obligation to withhold federal income, Social Security, and Medicare taxes from their employees' wages, hold these funds in trust, and then pay them over, along with a matching amount of Social Security and Medicare tax, to the IRS. Employment and income tax withheld comprise 70% of the total revenues collected by the IRS, and as of September 2015, nearly \$59 billion of employment tax reported on quarterly employment tax returns remained unpaid.

Many employment tax prosecutions involve business owners who divert withheld taxes to their personal use, funding a lavish lifestyle with the government's money. For example:

- In May 2015, Kevin Bertram, the former CEO of a wireless technology firm in the District of Columbia, was sentenced to 30 months in prison. As part of his guilty plea, Bertram admitted to willfully failing to pay over more than \$900,000 in employment taxes. At the same time that Bertram was failing to pay over to the IRS the income and other taxes withheld from employees' paychecks, he spent hundreds of thousands of dollars of company funds on sporting event tickets and personal luxury goods.
- In June 2015, Eric Anderson, the owner of three construction companies, was sentenced to 18 months in prison in an employment tax case that caused a loss of more than \$1 million to the IRS. From 2006 through 2008, Anderson used a commercial check cashing service to cash more than \$10.5 million in checks paid to his companies representing gross receipts of the



businesses. Anderson used a portion of the cash to pay his employees “under the table” wages. During this time period, Anderson failed to collect or pay over to the IRS the employment taxes that were due quarterly on his employees’ cash wages.

- In July 2015, Maria Elizabeth Townsend, the owner of an electrical contractor that employed over 100 individuals, was sentenced to 40 months in prison. Earlier in the year, a jury in Spokane, Washington convicted her of failing to pay over to the IRS \$3.3 million in withheld employment taxes over a four-year period. Instead of remitting these funds to the IRS, Townsend disbursed more than \$260,000 in funds to family members, and spent \$22,000 to construct a pool at her residence, \$30,000 to purchase a boat, \$30,000 to purchase a Cadillac Escalade, and \$42,982 to purchase a Jeep Commander. Townsend also used withheld taxes to pay the company’s vendors and employees.
- In October 2015, James Pielsticker, former CEO and president of Arrow Trucking Company, was sentenced to serve 7 ½ years and ordered to pay \$21 million in restitution for conspiring to defraud the US and to commit bank fraud, and for attempting to evade his individual income taxes. Pielsticker, his CFO, James Moore, and others withheld Arrow’s employees’ federal income tax withholding, Medicare and social security taxes, but did not report or pay over the tax to the IRS, despite knowing they were required to do so. The conspirators paid Pielsticker’s personal expenses and submitted fraudulent invoices to induce a bank to pay unwarranted funds. The conspiracy cost the US nearly \$10 million. On October 16, after cooperating with the government and testifying against Pielsticker, Moore was sentenced to 35 months in prison.

The Tax Division is working closely with the IRS Collection, Examination and Criminal Investigation divisions to ensure that IRS and Department personnel receive up-to-date training with respect to employment tax offenses, charging issues, potential defenses and sentencing issues. With respect to existing resources, in September 2015, the Tax Division updated the employment tax chapter of the Criminal Tax Manual and is working on a centralized database of criminal employment tax resources for Department prosecutors. The Tax Division also designated an Assistant Chief in the Southern Criminal Enforcement Section as the Point of Contact for criminal employment tax enforcement matters for the IRS and the Offices of the U.S. Attorneys. Finally, the Tax Division has increased its efforts to publicize results achieved in this area.

Prosecutions in this area not only punish those charged, but send a strong message of deterrence to those engaged in similar violations and those who are considering such conduct that the Department stands ready to investigate, prosecute and hold accountable those engaged in similar conduct.

### **Stolen Identity Refund Fraud**

Stolen Identity Refund Fraud (SIRF) crimes have hit epidemic levels, with many defendants filing thousands of false returns, resulting in millions of dollars in fraudulent refund claims. Victims hail from all segments of our society. The elderly are particularly vulnerable as a result of their contact with hospitals, assisted living centers, nursing homes, but they are not alone. SIRF victims include state and federal employees, the imprisoned, young children, the infirm, and members of our armed forces deployed overseas. Concerted and coordinated efforts among law enforcement partners are needed now more than ever.



In contrast with many of our traditional tax prosecutions, which may arise out of IRS administration investigation or lengthy grand jury proceedings, SIRF prosecutions are often reactive to exigent circumstances. In many cases, the crime is discovered by local law enforcement officers who come upon a large cache of Treasury checks or debit cards loaded with fraudulent tax refunds.

The low physical risk and high potential for financial gain has made stolen identity refund fraud the new crime of choice for drug dealers and gangs. While the crime may seem deceptively simple, the scope and organization of these criminals is vast and growing. In certain cases, the proceeds of the crimes have been used to purchase illegal narcotics for resale, or funneled offshore.

For taxpayers who are direct SIRF victims, the economic and personal consequences can be severe and often long-term. While the IRS will make good on the refund that is due to the taxpayer, the personal burden and delay can be considerable. Further, when a stolen identity is used to commit tax refund fraud, all taxpayers are victims, and all Americans are impacted by the loss to the Federal Treasury.

Recognizing these fast-moving law enforcement needs, and understanding that the Tax Division's required review and authorization for all tax grand jury investigations and prosecutions nationwide takes time, in October, 2012, we issued Directive 144, delegating to local U.S. Attorneys' Offices the authority to initiate tax-related grand jury investigations in SIRF matters, to charge those involved in SIRF crimes by complaint, and to obtain seizure warrants for forfeiture of criminally-derived proceeds arising from SIRF crimes, all without prior authorization from the Tax Division.

Since Directive 144 was issued, USAOs, have been able to respond quickly to SIRF type cases, and the Tax Division has authorized more than 1,200 SIRF investigations involving more than 1,800 subjects. As a result, the Tax Division and the U.S. Attorneys' Offices have brought approximately 800 prosecutions involving more than 1,700 individuals. And the courts are responding with substantial sentences. In addition, in February 2014, the Tax Division formed a SIRF Advisory Board, consisting of experienced SIRF prosecutors and designed to develop and implement a national strategy to ensure consistent and effective enforcement and prosecution.

Throughout 2015 and continuing into 2016, the Tax Division has worked in collaboration with the U.S. Attorney's Office for the District of Columbia to aggressively pursue a massive SIRF scheme that targeted vulnerable victims. This sophisticated scheme involves an extensive network of more than 130 individuals and resulted in the filing of at least 12,000 fraudulent federal income tax returns for the tax years 2005 through 2012 that sought refunds of more than \$40 million. The co-conspirators filed returns in the names of individuals whose identities had been stolen, including the elderly, people in assisted living facilities, drug addicts, and the incarcerated. Multiple defendants have pleaded guilty for their role in this scheme, and several have received substantial prison sentences, including the following:

- In January 2015, Yvette Haden, a Suntrust bank employee, was sentenced to 87 months and ordered to pay restitution to the IRS of nearly \$1 million. She used her position at the bank to open accounts into which fraudulently obtained refund checks were deposited.
- In May 2015, James Nelson received a sentence of more than three years in jail. Over a four year period, Nelson used his residential address to receive tax refund checks generated as part of the scheme, and recruited others to receive checks at their addresses. Approximately 360 returns listing Nelson's address were filed with the IRS.



- In October 2015, Alvalonzo Graham was sentenced to 46 months in prison. Graham prepared and mailed fraudulent federal income tax returns to the IRS, deposited the fraudulently-obtained tax refund checks into his own bank account, and recruited, coordinated, directed and compensated others in the execution of the scheme, including a bank teller.
- In January 2016, Marc Bell, a former employee of the D.C. Department of Youth Rehabilitation Services. Bell admitted to using his position to steal the names of at least 645 juveniles who were under court supervision. Bell then sold those names to co-conspirators, who used the information to file false tax returns.

In another far-reaching conspiracy, several defendants were sentenced to lengthy prison terms in the Middle District of Alabama for using stolen identities of state and federal workers, including soldiers deployed to Afghanistan, to file fraudulent returns. In September 2015, Keisha Lanier, the ringleader of the scheme, was sentenced to 15 years in prison. Lanier worked with Tracy Mitchell, who was sentenced to 159 months in prison on August 7, and other conspirators to file more than 9,000 false federal income tax returns seeking \$24 million in refunds. Mitchell accessed the identification data of military personnel through her employment at the hospital in Fort Benning, Georgia. Another participant in the scheme, Tamika Floyd, received an 87-month prison term in May 2015 for her role, which included theft of personal information from Alabama state agencies. In addition to filing false tax returns, the scheme also involved a complex money laundering operation. Nearly \$10 million in fraudulent tax refund checks were cashed at several businesses located in Alabama, Georgia and Kentucky. One of the scheme participants was recruited because she worked at a Walmart money center, where she cashed checks for customers as part of her job. In an attempt to conceal the crime from Walmart, the defendants had multiple individuals bring the tax refund checks to the store. In total, 11 participants in this fraud were sentenced to a combined prison term of approximately 66 years.

We all know we will not prosecute our way out of this problem, but we are committed to aggressively prosecuting these offenders and assisting the IRS as it works to increase its ability to stop these refunds from being issued.

### **Prosecuting Abusive Promotions**

The Department continues to actively target those who promote the use of fraudulent tax shelters and other schemes to evade taxes and hide assets. Some schemes use domestic or foreign trusts to evade taxes. Promoters of these schemes often use the internet to aggressively market these trusts to the public, and rely upon strained, if not demonstrably false, interpretations of the tax laws. Employing what they often call “asset protection trusts” (ostensibly designed to guard an individual’s assets from legitimate creditors, including the IRS), these promoters are in fact assisting taxpayers to fraudulently assign income and conceal ownership of income-producing assets in order to evade paying their taxes. The Tax Division and U.S. Attorneys’ Offices are vigorously employing a range of criminal and civil tools, including injunctive relief, to address these abusive activities.

In March 2015, three promoters of a scheme called the National Audit Defense Network (NADN) were sentenced to substantial prison terms for conspiring to defraud the United States and aiding in the preparation of false tax returns. Alan Rodrigues, a former casino owner, was sentenced to 72 months in prison; Weston Coolidge, a former Las Vegas businessman was sentenced to 70 months; and former NFL punter Joseph Prokop received an 18-month prison term. These sentences follow the



defendants' May 2014 conviction following a six-week jury trial in the District of Nevada. A fourth co-conspirator, California businessman Daniel Porter, pleaded guilty to conspiracy to defraud the United States and was sentenced on April 10 to 55 months in prison. Porter created a product called Tax Break 2000 and conspired with Rodrigues, Coolidge, and Prokop to promote the product by falsely representing to customers that buying Tax Break 2000 would allow them to claim income tax credits and deductions under the Americans with Disabilities Act by modifying the customers' websites to be more accessible to the disabled. As part of the conspiracy, the defendants trained return preparers working for NADN to prepare false tax returns that claimed these bogus credits and deductions. Between 2001 and 2004, the defendants sold Tax Break more than 18,000 times to thousands of customers throughout the United States. In 2004, the Tax Division also filed a civil suit to enjoin NADN's activities.

### **Return-Preparer Fraud**

Corrupt accountants and unscrupulous tax return preparers continue to present a serious law enforcement concern. Some accountants and return preparers deceive unwitting clients into filing false and fraudulent returns, while others serve as willing "enablers," providing a veneer of legitimacy for clients predisposed to cheat. In addition to the significant adverse impact these individuals have on the U.S. Treasury, their status as professionals may be perceived as legitimizing tax evasion, thereby promoting disrespect for the law.

In January 2015, Rony Maurival, the operator of a tax return preparation business in the Southern District of Florida, was sentenced to 81 months in prison for filing false tax returns, theft of government funds, and aggravated identity theft. Maurival admitted to including false information on clients' income tax returns to illegally maximize the Earned Income Tax Credit. His actions resulted in a tax loss to the U.S. Treasury of between \$1 million and \$2.5 million. Maurival also filed income tax returns using stolen identities and directed that the IRS deposit the fraudulent tax refunds in his bank accounts. Maurival also filed false tax returns for himself for tax years 2009 and 2010, on which he failed to report more than \$250,000 in tax return preparation fees.

### **National Tax Defier Initiative**

Tax defiers, also known as illegal tax protesters, have long been a focus of the Tax Division's investigative and prosecution efforts. Tax defiers advance frivolous arguments and develop a wide variety of schemes to evade their income taxes, assist others in evading their taxes, and frustrate the IRS, all under the guise of constitutional and other meritless objections to the tax laws. Frivolous arguments used by tax defiers include, for example, spurious claims that an individual is a "sovereign citizen" not subject to the laws of the United States, that the federal income tax is unconstitutional, and that wages are not income. Schemes utilized include the use of fictitious financial instruments in purported payment of tax bills and other debts, as well as the filing of false liens and IRS reporting forms, such as Forms 1099, designed to harass and retaliate against government employees and judges. In the most extreme circumstances, tax defiers have resorted to threats and violence to advance their anti-government agenda.

Tax defiers are identified by the schemes in which they participate and the tactics they utilize. It is important to note that those who merely express dissatisfaction with the tax laws should not be, and are not, prosecuted. The Department cherishes the right to free speech, but recognizes that it does not extend to acts that violate or incite the imminent and likely violation of the tax laws.



Because a segment of the tax defier community may and has resorted to violence to advance their cause, it is essential that law enforcement be prepared to respond rapidly to threats against agents, prosecutors, and judges. The Tax Division has implemented a comprehensive strategy using both civil and criminal enforcement tools to address the serious and corrosive effect of tax defier and sovereign citizen activity. Led by a National Director, the Tax Division's Tax Defier Initiative facilitates coordination among nationwide law enforcement efforts. Increased coordination allows new and recycled tax defier and related schemes and arguments to be identified quickly, and a coordinated strategy to be developed.

Through the Tax Defier Initiative, the Division has leveraged our expertise to develop a government-wide approach to monitoring and combating these crimes. As a result, our National Director for the Tax Defier Initiative, working with representatives of IRS Criminal Investigations, Treasury Inspector General for Tax Administration, the FBI Domestic Terrorism Operations Unit, and the Department's National Security Division, developed and implemented a national training program for prosecutors and investigators. The close working relationships fostered by our Initiative have enabled us to identify and respond more quickly and efficiently to trends in the tax defier community.

As in other areas, the Tax Division has made important strides in combating tax defier activity. Recent successes include the following.

In February 2015, Donna Marie Kozak, a former college instructor from Nebraska, was sentenced to 36 months in prison following her conviction for tax obstruction, filing a false claim and filing false retaliatory property liens. In addition to hiding assets from the IRS, filing a false claim for an income tax refund, and applying for tax exempt status for a sham entity, Kozak filed a false lien for \$19 million against the federal judge who presided over the criminal tax prosecution of two of her associates. After she was indicted, Kozak filed additional false liens against another federal judge, the U.S. Attorney for the District of Nebraska, two Assistant U.S. Attorneys and an IRS-Criminal Investigation special agent. Kozak was a member of the "Republic for the united States of America" (RuSA), a sovereign citizen group, and was the group's designated "governor of Nebraska." James Timothy Turner, the self-proclaimed "President" of RuSA was sentenced to 18 years in prison in July 2013. Turner was convicted by a jury of conspiracy to defraud the United States, attempting to pay taxes with fictitious financial instruments, attempting to obstruct and impede the IRS, failing to file a 2009 federal income tax return, and falsely testifying under oath in a bankruptcy proceeding.

In May 2015, Gerrit Timmerman, III and Carol Jean Sing were sentenced to 48 months and 36 months, respectively, after a jury in Utah convicted them of promoting a tax fraud scheme. Timmerman and Sing conspired to defraud the United States by marketing entities called "corporations sole," which they falsely told their clients were exempt from United States income tax laws, had no obligation to file tax returns and had no obligation to apply for tax exempt status. They further claimed that individuals could render their own income non-taxable by assigning it to the corporation sole, could draw a tax-free stipend from their corporation sole, and could render property immune from IRS collection activity by transferring property to the corporation sole. The IRS has publicized the fact that corporations sole have been abused by promoters, and has even included corporations sole on their "dirty dozen" tax scams in prior years.

In January 2016, Canadian citizen Kevin Cyster was sentenced to 135 months in prison for his role in a tax fraud scheme that attempted to defraud the government out of approximately \$10 million. Cyster and other Canadian citizens living in Canada filed tax returns that claimed refunds based on false



Forms 1099-OID. On these tax returns, Cyster and his co-conspirators falsely claimed that nearly \$10 million in federal income taxes had been withheld on their behalf by various Canadian financial institutions and paid over to the IRS. Brekke was sentenced to 12 years in prison for promoting the 1099-OID scheme, which the IRS has listed among its “dirty dozen” tax scams.

### **Counter Terrorism**

Tax Division attorneys play an important role in the fight against international terrorism. Tax Division attorneys lend their expertise to attorneys at the National Security Division and at U.S. Attorneys’ Offices in prosecuting those who take advantage of the tax laws to fund terrorism, including through the use of tax-exempt organizations. A Tax Division Senior Litigation Counsel is responsible for managing matters associated with counter-terrorism and terrorist financing and serves as lead counsel in investigating, developing, and prosecuting criminal tax cases with a nexus to counter-terrorism and terrorism financing.

### **Corporate Fraud and other Financial Crimes**

Through the President’s Financial Fraud Enforcement Task Force, the Division investigates and prosecutes financial crimes such as corporate fraud and mortgage fraud. The Division also cooperates with other law enforcement components in formulating national policies, programs, strategies and procedures in a coordinated attack on financial crime.

For example, in January 2016, five residents of Detroit, Michigan were sentenced to lengthy terms of incarceration and ordered to pay restitution to financial institutions following convictions for conspiracy to commit bank fraud. Between January 2006 and December 2008, the defendants purchased single-family homes in Detroit, Michigan for approximately \$5,000 to \$40,000 each and re-sold the homes to third party individuals, referred to as “straw buyers,” that they recruited. The defendants then caused fraudulent mortgage loan applications in the names of the straw buyers to be submitted to financial institutions. In addition to these five defendants, an individual who served as a straw buyer and a mortgage broker who assisted in the preparation of false mortgage loan applications also pleaded guilty and received terms of incarceration.

### **International Cooperation to Investigate Tax Evasion**

The Tax Division regularly provides advice and assistance to Assistant United States Attorneys and IRS agents seeking extradition, information, and cooperation from other countries for both civil and criminal tax investigations and cases. Occasionally, the Tax Division provides assistance to attorneys from other federal agencies and offices, including the Federal Bureau of Investigation, the Securities and Exchange Commission, and the Department of Homeland Security.

The Tax Division also works to increase cooperation with foreign nations, recognizing that reciprocal engagements ultimately further the Division’s mission. For example, the Division has participated in consultations with France and Canada in an effort to improve the exchange of information under our income tax treaties with those countries, and the Division periodically hosts visiting delegations of tax officials from countries interested in learning more about federal tax enforcement in the United States. The Tax Division is also an important partner in the U.S. negotiating team for Double Taxation Conventions, Tax Information Exchange Agreements, and other international agreements concerning tax information.



## Civil/Criminal Coordination

Finally, the Tax Division uses parallel civil and criminal proceedings to pursue both civil injunctions and criminal prosecutions against those who promote abusive schemes, engage in false tax return preparation, and pyramid employment tax liabilities. To facilitate this process and ensure that the Division is employing all available tools its tax enforcement efforts, the Tax Division named two trial attorneys as Counsel for Civil and Criminal Coordination. The Counsel provide civil trial attorneys and prosecutors with one-on-one assistance in handling parallel civil and criminal proceedings, participate in a Comprehensive Enforcement Working Group formed to promote better coordination of parallel proceedings, conduct training, and participate in various bar panels. The Tax Division also maintains an online resource library regarding parallel proceedings and comprehensive tax enforcement efforts.

## 2. Performance Tables

**Performance and Resource Table**

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: General Tax Matters			Strategic Goal 2/Strategic Objective 2.6 - Protect the federal fisc and defend the interests of the United States									
RESOURCES												
			Target		Actual		Target		Changes		Requested (Total)	
			FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			534	\$100,674			634	\$108,970	0	\$7,158	534	\$114,135
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program		FY 2017 Request	
Program Activity: Criminal Prosecution & Appeals			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			154	\$30,128			154	\$30,188	0	\$2,018	154	\$32,188
Performance Measure: Workload	2.6	Number of Cases received from the IRS and USAO for Authorization and Review	n/a		n/a		n/a		n/a		n/a	
Performance Measure: Output	2.6	Number of Investigations Authorized	n/a		n/a		n/a		n/a		n/a	
Performance Measure: Output	2.6	Number of Prosecutions Authorized	n/a		n/a		n/a		n/a		n/a	
Performance Measure: Outcome	2.6	Success Rate for Criminal Tax Cases Handled by the Division	65%		90%		90%		n/a		90%	
Program Activity: Civil Litigation & Appeals			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
			380	\$76,548	0	\$0	380	\$78,811	0	\$6,138	380	\$81,040
Performance Measure: Outcome	2.6	Civil Cases Successfully Litigated in the Trial Courts	90%		90%		90%		n/a		90%	
Performance Measure: Outcome	2.6	Civil Cases Successfully Litigated - Taxpayer Appeals	86%		94%		86%		n/a		86%	
Performance Measure: Outcome	2.6	Civil Cases Successfully Litigated - Government and Cross Appeals	85%		84%		80%		n/a		80%	
Performance Measure: Outcome	2.6	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	n/a		\$895		n/a		n/a		n/a	



## Performance Measure Table

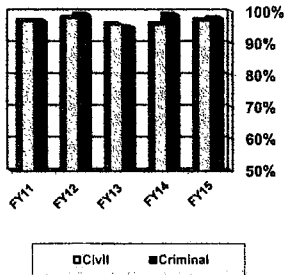
PERFORMANCE MEASURE TABLE														
Decision Unit: General Tax Matters														
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017					
			Actual	Actual	Actual	Actual	Actual	Target	Target					
2.6	Performance Measure	Number of Criminal Investigations Authorized	850	938	749	664	590	n/a	n/a					
2.6	Performance Measure	Number of Criminal Prosecutions Authorized	2,320	1,751	1,495	1,233	1,073	n/a	n/a					
2.6	Outcome Measure	Success Rate for Criminal Tax Cases Handled by the Division	97%	99%	95%	99%	98%	90%	90%					
2.6	Outcome Measure	Civil Cases Successfully Litigated in the Trial Courts	97%	96%	96%	96%	96%	80%	80%					
2.6	Outcome Measure	Civil Cases Successfully Litigated - Taxpayer Appeals	96%	98%	97%	94%	94%	85%	85%					
2.6	Outcome Measure	Civil Cases Successfully Litigated - Government and Cross Appeals	59%	55%	68%	64%	61%	60%	60%					
2.6	Outcome Measure	Tax Dollars Collected and Retained by Court Action and Settlement (\$ in millions)	\$552.0	\$1,430.4	\$1,212.2	\$365.2	\$907.0	n/a	n/a					
n/a = In accordance with Department guidance, there is no target for this measure.														



### 3. Performance, Resources, and Strategies

The General Tax Matters Decision Unit contributes to the Department's Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and enforce Federal Law. Within this Goal, the Decision Unit's resources specifically address Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

**Cases Favorably Resolved (TAX)**



**Data Definition:** Favorable civil resolutions are through a judgment or settlement. Each civil decision is classified as a Government win, partial win, or taxpayer win; for this report, success occurs if the Government wins in total or in part. Criminal cases are favorably resolved by convictions which includes defendants convicted after trial or by plea agreement at the trial court level in prosecutions in which the Tax Division has provided litigation assistance at the request of a USAO.

**Data Collection and Storage:** The Tax Division utilizes a litigation case management system called TaxDoc.

**Data Validation and Verification:** The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc. Management uses the data to set goals, manage cases and project workload. The statistics in this table are provided on a monthly basis to Division management for their review.

**Data Limitations:** The Tax Division lacks historical data on some activities that are now tracked in the case management system. The information system may cause variations in the way some statistics are presented.

The goals of the Tax Division are to increase voluntary compliance, maintain public confidence in the integrity of the tax system, and promote the sound development of law.

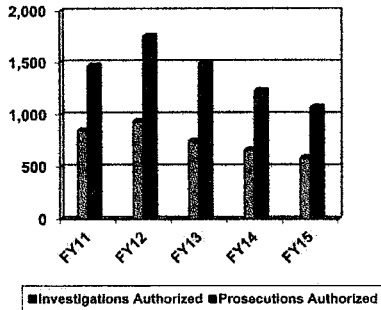
**Performance Measure 1:** Percentage of Cases Favorably Resolved

**FY 2015 Actual:** 97% for Civil Trial and 98% for Criminal.

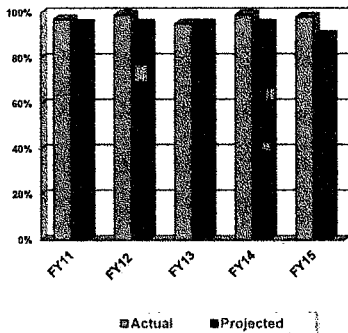
**Discussion:** The outcome measure for this decision unit is favorable resolution of all cases. The Department of Justice Strategic Plan sets Department-wide goals for the litigating components: 90% of criminal cases favorably resolved Department-wide and 80% of civil cases favorably resolved. As illustrated in the chart "Cases Favorably Resolved (TAX)," the Tax Division has exceeded the Department's goal for the last several years. In FY 2015, favorable outcomes were achieved in 97% of all civil and 98% of all criminal cases litigated by the Tax Division, including non-tax cases. To meet the targets for this measure, the Tax Division requires \$114,135 thousand dollars. These resources are essential if we are to continue attaining the Department's targets for this measure.



## Investigation and Prosecution Referrals Authorized



## Success Rate for Criminal Tax Cases



**Data Definition:** Investigation and Prosecution Referrals are grand jury investigation and criminal prosecution requests referred to the Tax Division for review to ensure that federal criminal tax enforcement standards are met. The number of prosecution referrals authorized is a defendant count; investigations may involve one or more targets. The **Success Rate** is convictions divided by the total of convictions and acquittals. "Convictions" includes defendants convicted after trial or by plea agreement at the trial court level in criminal tax prosecutions in which the Tax Division has provided litigation assistance at the request of a USAO. Defendants acquitted are defendants acquitted in the district court in cases in which the Tax Division provided litigation assistance.

**Data Collection and Storage:** The Tax Division utilizes a litigation case management system known as TaxDoc. The Division periodically reviews the complement of indicators that are tracked.

**Data Validation and Verification:** There are procedures to collect and record pertinent data, enabling Section Chiefs to make projections and set goals based on complete, accurate and relevant statistics.

**Data Limitations:** The Tax Division lacks historical data on some activities that are tracked in the case management system.

## Performance Measure 2: Criminal Investigation and Prosecution Referrals Authorized

**FY 2015 Actual: 590 Grand Jury Investigations and 1,073 Prosecutions**

**Discussion:** The Tax Division also measures the number of authorized investigation and prosecution referrals in criminal cases. In FY 2015, the Division authorized 590 grand jury investigations and 1,073 prosecutions of individual defendants. Changes in the number of authorized investigations are largely proportional to the number of investigations initiated by the Internal Revenue Service.

Consistent with Department guidance, there is no FY 2016 or FY 2017 performance goal for authorized investigations and prosecutions.

## Performance Measure 3: Success Rate for Criminal Tax Cases

**FY 2015 Actual: 98%**

**Discussion:** The Tax Division's Criminal Trial Sections assume responsibility for some cases at the request of the USAOs, generally multi-jurisdictional investigations and prosecutions, and cases with significant regional or national importance. Although many of these cases are difficult to prosecute, the Division has maintained a conviction rate at or greater than 95%. In FY 2015, the Division's conviction rate was 98% in tax cases.

For FY 2015, and FY 2016, the Tax Division has established a conviction rate goal of 95%. While the Tax Division is very proud of its conviction rate, our emphasis is on uniform and fair enforcement of the tax laws, and not on meeting numeric targets.



#### Performance Measure 4: Civil Cases Successfully Litigated

**FY 2015 Actual:** Trial Courts – 97%  
Taxpayer Appeals – 95%  
Government and Cross Appeals – 61%

**Discussion:** For civil cases, the Tax Division measures cases successfully litigated, in total or in part, by the resolution of a claim through judgment or other court order.

We anticipate that maintaining this level of success will result in legal precedent that provides taxpayers, including individuals, businesses and industries, with guidance regarding their tax obligations; the collection of significant tax revenues; and the protection of the government against unfounded taxpayer claims. Many of the government appeals (and cross-appeals) during the reporting period involve the same (or similar) issues, so that a loss in a single case affects the outcome of multiple appeals.

#### Performance Measure 5: Tax Dollars Collected and Retained

**FY 2015 Actual: \$412 Million Collected and \$483 Million Retained**

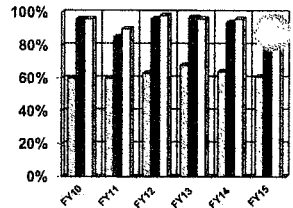
**Discussion:** The Tax Division collects substantial amounts for the federal government in affirmative litigation, and retains even more substantial amounts in defensive tax refund and other litigation. For FY 2015, the Division collected \$412 million and retained \$483 million.

In addition to this measurable impact, the Division's litigation affects the revenue at issue in many cases being handled administratively by the IRS, and determines tax liabilities of litigants for many additional tax years. Its litigation successes also foster overall compliance with the tax laws. This substantial financial impact is a consequence of the Division's consistent and impartial enforcement of the tax laws. The Division does not measure these indirect effects of its litigation. Without sufficient resources, the Division will be forced to focus the majority of its resources on defensive cases which would result in affirmative cases - cases the IRS requests the Division to prosecute - being declined. If this occurs, the Division will not be able to meet its targets for this measure.

##### a. Strategies to Achieve the FY 2017 Goals:

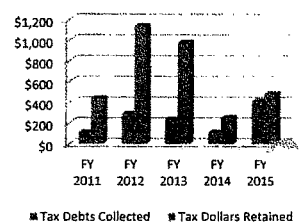
A strong tax system is vital to our national strength. It is essential that taxpayers believe, with good reason, in the integrity of the tax system. It is fundamental that we meet our obligations to our citizens to ensure the full, fair, and consistent enforcement of our tax laws. The Division's long-standing coordinated approach to tax enforcement is a particularly

Civil Cases Successfully Litigated (TAX)



□ Appellate Courts - Gov't & Cross Appeals  
■ Appellate Courts - Taxpayer Appeals  
□ Trial Courts

Tax Debts Collected and Dollars Retained (\$s in Millions)



■ Tax Debts Collected ■ Tax Dollars Retained

**Data Definition:** A decision is the resolution of a claim through judgment or other court order. Each decision is classified as a Government win, partial win, or taxpayer win; for this report, success occurs if the Government win in whole or in part. Appellate cases are classified as Taxpayer Appeals, Government Appeals, or Cross Appeals. The number of Government or Cross Appeals is generally less than 10% of the number of taxpayer appeals. **Tax Debts Collected** represents dollars collected on pending civil cases and outstanding judgments. **Tax Dollars Retained** represents the difference between claim amount sought and received by opposing parties in refund suits closed during the period.

**Data Collection and Storage:** The Tax Division utilizes a case management system known as TaxDoc.

**Data Validation and Verification:** The Tax Division has established procedures to collect and record reliable and relevant data in TaxDoc. Management uses the data to set goals, manage cases and project workload. The statistics in this table are provided on a monthly basis to Division management for their review.

**Data Limitations:** The Tax Debts Collected and Dollars Retained indicator fluctuates in response to the type and stage of litigation resolved during the year.



effective component to the Administration's goal to reduce the tax gap. Because the Tax Division's work already encompasses the elements of an effective tax enforcement program, the organization is well suited to expand existing programs with greater benefits in return.

The Tax Division's primary civil strategy to achieve its goals is to litigate federal civil tax cases filed by and against taxpayers in the federal courts. Through this litigation, the Division ensures the tax laws are properly enforced, by targeting particularly acute tax enforcement problems that threaten tax administration. In carrying out its mission, the Tax Division conducts in each civil tax case an independent review of the IRS's views and administrative determinations to help ensure that the Government's position is consistent with applicable law and policy. This independence, backed by a willingness to engage in aggressive litigation where appropriate, promotes the effective collection of taxes owed, while also serving as a check against potential abuses in tax administration.

While the Tax Division is and will remain responsive to shifts in criminal tax schemes, enforcement of the criminal tax statutes against individuals and businesses that engage in attempts to evade taxes, willful failure to file returns, and the submission of false returns, are at the core of the Division's mission. Enforcement of the internal revenue laws serves the goals of both specific and general deterrence. Enforcement of our criminal tax laws also helps us meet our responsibility to all taxpayers who meet their obligations, to pursue those who do not.



A: Organizational Chart

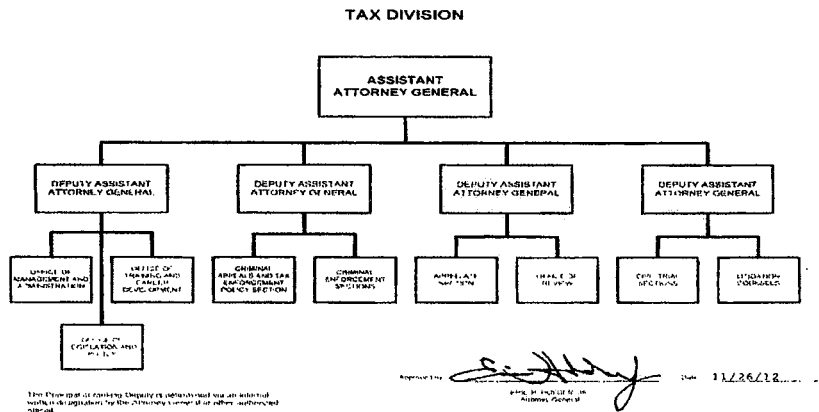


Exhibit A - Organizational Chart



B. Summary of Requirements

**Summary of Requirements**  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted	639	534	106,674
Total 2015 Enacted	639	534	106,674
2016 Enacted	639	534	106,979
Base Adjustments			
Pay and Benefits	0	0	634
Domestic Rent and Facilities	0	0	6,522
Total Base Adjustments	0	0	7,156
Total Technical and Base Adjustments	0	0	7,156
2017 Current Services	639	534	114,135
2017 Total Request	639	534	114,135
2016 - 2017 Total Change	0	0	7,156



## B. Summary of Requirements

**Summary of Requirements**  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
General Tax Matters	639	447	106,674	639	534	106,979	0	0	7,156	639	534	114,135
<b>Total Direct</b>	<b>639</b>	<b>447</b>	<b>106,674</b>	<b>639</b>	<b>534</b>	<b>106,979</b>	<b>0</b>	<b>0</b>	<b>7,156</b>	<b>639</b>	<b>534</b>	<b>114,135</b>
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			<b>106,674</b>			<b>106,979</b>			<b>7,156</b>			<b>114,135</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>447</b>			<b>534</b>			<b>0</b>			<b>534</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>447</b>			<b>534</b>			<b>0</b>			<b>534</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
General Tax Matters	0	0	0	0	0	0	639	534	114,135
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>639</b>	<b>534</b>	<b>114,135</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>0</b>			<b>0</b>			<b>114,135</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>534</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>534</b>	

Exhibit B - Summary of Requirements



D. Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal and Objective  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Current Services		FY 2017 Increases		FY 2017 Offsets		FY 2017 Total Request	
	Direct & Reimb. FTE	Direct Amount	Direct & Reimb. FTE	Direct Amount	Direct & Reimb. FTE	Direct Amount	Direct & Reimb. FTE	Direct Amount	Direct & Reimb. FTE	Direct Amount	Direct & Reimb. FTE	Direct Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law												
2.6 Protect the federal tax and defend the interests of the United States	347	106,674	534	106,979	534	114,135	0	0	0	0	534	114,135
Subtotal Goal 2	447	106,674	534	106,979	534	114,135	0	0	0	0	534	114,135
TOTAL	447	106,674	534	106,979	534	114,135	0	0	0	0	534	114,135

Table D - Resources by DOJ Strategic Goal and Strategic Objective



## E. Justifications for Technical and Base Adjustments

**Justifications for Technical and Base Adjustments**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Pay and Benefits</b>			
<b>1 2017 Pay Raise:</b> This request provides for a proposed 1.8 percent pay raise to be effective in January of 2017. The amount request, \$781, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$582 for pay and \$219 for benefits.)	0	0	837
<b>2 Annualization of 2016 Pay Raise:</b> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$260, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$187 for pay and \$73 for benefits).	0	0	260
<b>3 Change in Compensable Days:</b> The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$429 and applicable benefits \$167 by 280 compensable days	0	0	-596
<b>4 Health Insurance:</b> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.1 percent. Applied against the 2016 estimate of \$2,097, the additional amount required is \$65.	0	0	65
<b>5 Retirement:</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$68 is necessary to meet our increased retirement obligations as a result of this conversion	0	0	68

Exhibit E. Justifications for Technical and Base Adjustments



## E. Justifications for Technical and Base Adjustments

**Justifications for Technical and Base Adjustments**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>634</b>
<b>Domestic Rent and Facilities</b>			
<b>1 General Services Administration (GSA) Rent:</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$271 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	271
<b>2 Guard Services:</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$18 is required to meet these commitments.	0	0	18
<b>3 Moves (Lease Expirations)-non-recur:</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This is the non-recurrence of the move costs associated with new office relocations provided in the FY 2016 President's Budget.	0	0	0
<b>4 Moves (Lease Expirations):</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	0	0	6,233
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>6,522</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>0</b>	<b>7,156</b>

Exhibit E. Justifications for Technical and Base Adjustments



Crosswalk of 2015 Availability  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover	Rescission	Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Amount	Direct Pos.	Est FTE	Amount
General Tax Matters	639	447	106,674	0	0	-25	1,360	-493	149	639	447	108,158
Total Direct	639	447	106,674	0	0	-25	1,360		149	639	447	108,158
Balance Rescission			0			0		-493	0			-493
Total Direct with Rescission			106,674			-25	867		149			107,665
Reimbursable FTE		0			0						0	
Total Direct and Reimb. FTE		447			0						447	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0									0	
Grand Total, FTE		447			0						447	

**Reprogramming/Transfers**  
The total transfers of \$18.2M reflect a transfer of \$13.5M from the FEW appropriation to Criminal Division for their Mutual Legal Assistance Treaty (MLAT) program, transfers in of \$5.05M from GLA's prior years' unobligated balances, the transfer back to GLA's 2011 account of \$50K, and the transfer out of \$320K for the JIST program. Funding of \$4M was reallocated from GLA's ALS account to the Office of Solicitor General, Environment, and Civil Rights Divisions' ALS accounts

**Carryover:**  
Funds were carried over into FY 2015 from GLA's 2014 no-year account.



**Crosswalk of 2016 Availability**  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 President's Budget			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Direct Pos.	Est. FTE	Amount
General Tax Matters	639	534	106,979	0	0	0	184	0	639	534	107,163
Total Direct	639	534	106,979	0	0	0	184	0	639	534	107,163
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			106,979			0	184	0			107,163
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		534			0					534	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		534			0					534	



H Summary of Reimbursable Resources

**Summary of Reimbursable Resources**

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Debt Collection 3% Fund- Personnel/Special Projects	0	0	8,352	0	0	11,880	0	0	0	0	0	-11,880
<b>Budgetary Resources</b>	0	0	8,352	0	0	11,880	0	0	0	0	0	-11,880

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
General Tax Matters	0	0	8,352	0	0	11,880	0	0	0	0	0	-11,880
<b>Budgetary Resources</b>	0	0	8,352	0	0	11,880	0	0	0	0	0	-11,880

Exhibit H - Summary of Reimbursable Resources



Detail of Permanent Positions by Category  
Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.
Personnel Management (0200-0260)	8	0	8	0	0	0	0	8	0
Clerical and Office Services (0300-0399)	108	0	108	0	0	0	0	108	0
Accounting and Budget (500-599)	9	0	9	0	0	0	0	9	0
Paralegals / Other Law (900-998)	125	0	125	0	0	0	0	125	0
Attorneys (905)	377	0	377	0	0	0	0	377	0
Library (1400-1499)	1	0	1	0	0	0	0	1	0
Information Technology Mgmt (2210-2299)	11	0	11	0	0	0	0	11	0
Total	639	0	639	0	0	0	0	639	0
Headquarters Washington D C	611	0	611	0	0	0	0	611	0
US Fields	28	0	28	0	0	0	0	28	0
Foreign Field	0	0	0	0	0	0	0	0	0
Total	639	0	639	0	0	0	0	639	0



## K Summary of Requirements by Object Class

## Summary of Requirements by Object Class

Tax Division  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	447	53,661	534	55,700	534	56,201	0	501
11.3 - Other than full-time permanent	0	5,803	0	7,550	0	7,550	0	0
11.5 - Other personnel compensation	0	849	0	860	0	860	0	0
Overtime	0	113	0	60	0	60	0	0
Other Compensation	0	736	0	800	0	800	0	0
11.8 - Special personal services payments	0	0	0	10	0	10	0	0
<b>Total</b>	<b>447</b>	<b>60,313</b>	<b>534</b>	<b>64,120</b>	<b>534</b>	<b>64,621</b>	<b>0</b>	<b>501</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		17,310		18,448		18,581	0	133
13.0 - Benefits for former personnel		0		10		10	0	0
21.0 - Travel and transportation of persons		3,006		3,150		3,150	0	0
22.0 - Transportation of things		759		800		800	0	0
23.1 - Rental payments to GSA		11,850		12,592		12,863	0	271
23.2 - Rental payments to others		425		435		453	0	18
23.3 - Communications, utilities, and miscellaneous charges		1,115		1,058		1,058	0	0
24.0 - Printing and reproduction		63		75		75	0	0
25.1 - Advisory and Assistance Services		843		0		0	0	0
25.2 - Other services from non-federal sources		6,117		757		6,990	0	6,233
25.3 - Other goods and services from federal sources		2,580		4,700		4,700	0	0
25.4 - Operation and Maintenance of Facilities		94		40		40	0	0
25.6 - Medical Care		54		65		65	0	0
25.7 - Operation and Maintenance of Equipment		40		25		25	0	0
26.0 - Supplies and materials		672		639		639	0	0
31.0 - Equipment		1,790		249		65	0	-184
32.0 - Land and structures		0		0		0	0	0
<b>Total Obligations</b>		<b>107,031</b>		<b>107,163</b>		<b>114,135</b>	<b>0</b>	<b>6,972</b>
Subtract - Unobligated Balance, Start-of-Year		-1,360		-184		0	0	184
Subtract - Transfers/Reprogramming		25		0		0	0	0
Subtract - Recoveries/Refunds		-149		0		0	0	0
Add - Rescission		493		0		0	0	0
Add - Unobligated End-of-Year, Available		184		0		0	0	0
Add - Unobligated End-of-Year, Expiring		450		0		0	0	0
<b>Total Direct Requirements</b>	<b>0</b>	<b>106,674</b>	<b>0</b>	<b>106,979</b>	<b>0</b>	<b>114,135</b>	<b>0</b>	<b>7,156</b>
Reimbursable FTE								
Full-Time Permanent	0		0		0		0	

Exhibit K - Summary of Requirements by Object Class



Department of Justice  
Criminal Division



Performance Budget  
FY 2017 President's Budget



## Contents

I. Overview of the Criminal Division .....	3
Mission Statement.....	3
Criminal Division's Strategic Priorities .....	3
Division Priorities .....	4
Program Activities .....	6
Reviewing the Use of Sensitive Law Enforcement Tools .....	9
Fostering Global Partnerships.....	10
Challenges to Achieving Outcomes .....	13
Budget & Performance Integration.....	13
Environmental Accountability .....	14
II. Summary of Program Changes .....	15
III. Appropriations Language and Analysis of Appropriations Language .....	15
IV. Program Activity Justification.....	16
Enforcing Federal Criminal Law .....	16
Program Description .....	16
Performance and Resource Tables .....	18
Performance, Resources, and Strategies .....	21
Strategies to Accomplish Outcomes .....	21
Priority Goals .....	22
V. Program Increases by Item.....	22
VI. Appendix: Exhibits	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2015 Program Changes by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2014 Availability	
G. Crosswalk of 2015 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	



## I. Overview of the Criminal Division

### Mission Statement

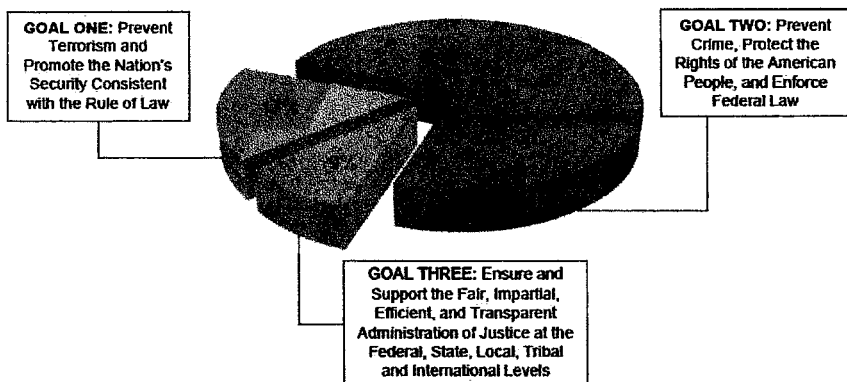
The Criminal Division's mission is to develop, enforce, and supervise the application of federal criminal laws. The Division responds to critical and emerging national and international criminal threats and leads the enforcement, regulatory, and intelligence communities in a coordinated, nationwide response to reduce those threats.

The Division coordinates with domestic and foreign law enforcement partners on a regular basis to pursue criminal investigations and assist, as appropriate, in the investigations by our foreign partners. The Division also partners with and assists U.S. Attorneys' Offices in investigating and prosecuting criminal matters, particularly in complex multi-jurisdictional or international cases. The Division serves as the central point of contact for foreign countries seeking law enforcement assistance, and also serves as the "central authority" for federal, state, and local law enforcement, seeking evidence or fugitives from abroad. No other organization within the Department or the U.S. Government is equipped to fulfill this role – one that is more critical than ever considering the continually increasing globalization and sophistication of crime. To sustain mission needs, the Criminal Division requests a total of 926 permanent positions, 772 direct Full-Time Equivalent work years (FTE), and \$198,712,000 in its Salaries and Expenses appropriation for Fiscal Year (FY) 2017.

### Criminal Division's Strategic Priorities

The Criminal Division leverages its substantial expertise in a broad array of federal criminal subject matters to assist the Department in achieving all three Strategic Goals, and the Division contributes to ten specific Strategic Objectives in the Department's plan.

### Criminal Division's Strategic Goals





*GOAL ONE: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law*

- 1.1 - Prevent, disrupt and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats
- 1.2 - Prosecute those involved in terrorist acts
- 1.4 - Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors

*GOAL TWO: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law*

- 2.1 - Combat the threat, incidence, and prevalence of violent crime, by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers
- 2.2 - Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims
- 2.3 - Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking and use of illegal drugs and the diversion of illicit drugs
- 2.4 - Investigate and prosecute corruption, economic crimes and transnational organized crime
- 2.5 - Promote and protect American civil rights by preventing and prosecuting discriminatory practices

*GOAL THREE: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels*

- 3.1 - Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors and defenders, through innovative leadership and programs
- 3.6 - Prevent and respond to genocide and mass atrocities and ensure that perpetrators of such crimes are held accountable in the United States, and if appropriate, their home countries

## Division Priorities

In working to achieve the Department's Strategic Plan and the Division's mission, the Division has identified the following key strategic outcomes to address the country's most critical justice priorities:

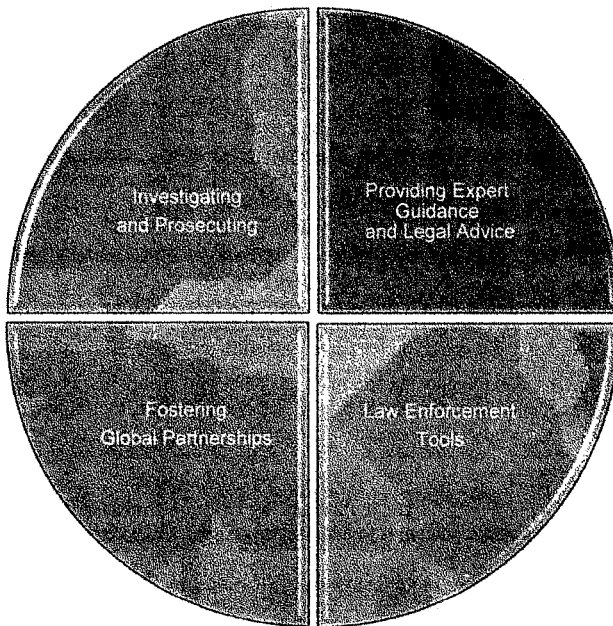
- Ensuring **trust and confidence in government institutions**, by reducing public corruption at every level of government;
- Ensuring the **stability and security of domestic and global markets**, as well as the integrity of government programs, by reducing fraud, money laundering, and other economic crimes, by both corporations and individuals;
- **Disrupting and dismantling criminal organizations and networks that act across state and national boundaries** and that threaten our country through violence, drug trafficking, and computer crime;
- Combating **cyber-based threats and attacks**;
- **Protecting our children from exploitation and vindicating human rights**;
- **Promoting the rule of law** around the world;
- **Assisting our foreign law enforcement partners** in obtaining evidence in the United States;
- **Strengthening justice sector institutions** in countries throughout the globe; and
- **Supporting crime-fighting efforts** across federal, state, and local governments.



The Criminal Division engages in several program activities to achieve its mission:

- Investigating and prosecuting cases
- Providing expert guidance and advice to our prosecutorial and law enforcement partners
- Reviewing the use of sensitive law enforcement tools, and
- Fostering global partnerships.

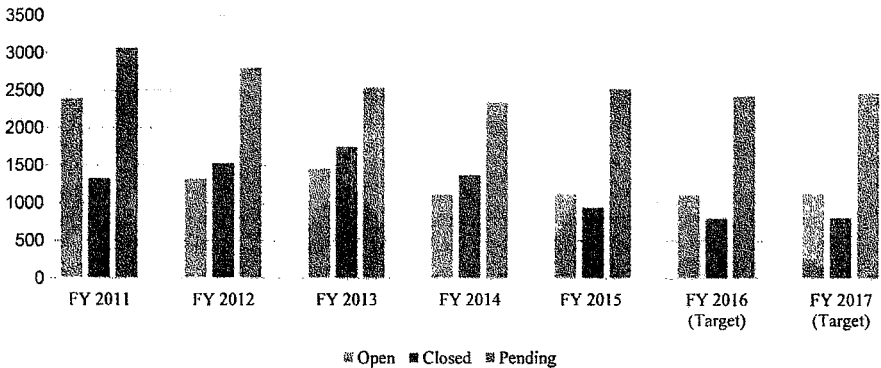
Every day, the Criminal Division performs these functions at the forefront of federal criminal law enforcement.





## Program Activities

### Criminal Division Prosecutions and Investigations FY 2011-FY 2017



### Investigating and Prosecuting Cases

- Investigating and prosecuting the most significant cases and matters
- Coordinating a wide range of criminal investigations and prosecutions that span multiple jurisdictions and involve multiple law enforcement partners

The Division strives to support its mission by investigating and prosecuting aggressively and responsibly. The Division undertakes complex cases, particularly cases involving multiple jurisdictions or that have an international component. In addition, for certain criminal statutes, the Division reviews all federal charging instruments filed throughout the United States to ensure a consistent and coordinated approach to the nation's law enforcement priorities. The Division has a "birds-eye" view of white collar crime, public corruption, cyber crime, organized crime, narcotics, violent crime, and other criminal activities. Consequently, the Division is uniquely able to ensure that crimes that occur, both in the United States and across borders, do not go undetected or ignored.

### Select Recent Criminal Division Accomplishments in Investigating and Prosecuting Cases

- The Fraud Section continues to prosecute complex and sophisticated securities, commodities, and other financial fraud cases. The Fraud Section has tackled some of the largest fraud cases in the financial services industry and a wide mix of market manipulation and insider trading cases. On May 20, 2015, the Department announced that four banks -- Citicorp, JPMorgan Chase & Co., Barclays PLC, and The Royal Bank of Scotland plc agreed to plead guilty in connection with their participation in a conspiracy to manipulate the price of U.S. dollars and euros exchanged in the foreign currency exchange (FX) spot market. Those banks agreed to pay more than \$2.5 billion in criminal fines. A fifth bank, UBS AG, agreed that it engaged in deceptive FX trading and sales practices that violated the non-prosecution agreement it had signed with the Department in order to resolve the investigation of UBS's manipulation of the benchmark interest rate





LIBOR. UBS pleaded guilty to a wire fraud charge in connection with the scheme to manipulate LIBOR, and agreed to pay a criminal penalty of \$203 million.

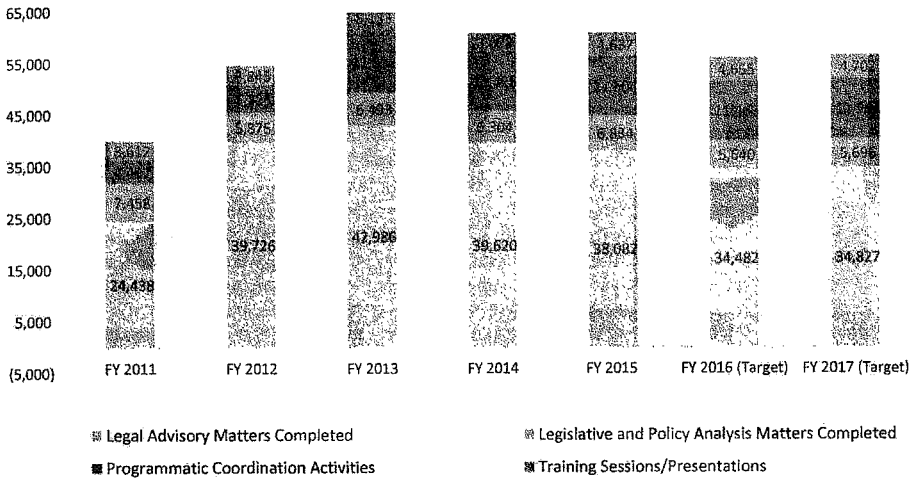
- In FY 2015, the Division's Computer Crimes and Intellectual Property Section (CCIPS) successfully prosecuted several individuals who engaged in a major hacking conspiracy between January 2011 and September 2012. During that period, hacking group members located in the United States and abroad gained unauthorized access to computer networks of various companies, including Microsoft Corporation, Epic Games Inc., Valve Corporation and Zombie Studios. The conspirators accessed and stole unreleased software, software source code, trade secrets, copyrighted and pre-release works, and other confidential and proprietary information. The data theft targeted software development networks containing source code, technical specifications and related information for Microsoft's then-unreleased Xbox One gaming console, as well as intellectual property and proprietary data related to Xbox Live and games developed for that online gaming system. The value of the intellectual property and other data stolen by the hacking ring, as well as the costs associated with the victims' responses to the conduct, is estimated to range between \$100 million and \$200 million.
- Alstom, the French multinational power and transportation company, engaged in a world-wide scheme to pay bribes to foreign officials in Indonesia, Saudi Arabia, Egypt, and the Bahamas, among other countries. Alstom and its co-conspirators attempted to conceal the source of the bribes by funneling them through third-party consultants and by falsifying its books and records. In all, Alstom paid more than \$75 million to the consultants to secure more than \$4 billion in projects, resulting in a gain of approximately \$300 million to the company. The bribe recipients included a high-ranking member of the Indonesian Parliament (who, with the assistance of the Department, was convicted in Indonesia of the bribe scheme) and various high-ranking officers and board members of several state-owned power companies. Despite Alstom's refusal to cooperate with the government's investigation for the first three years of the investigation, the Department secured guilty pleas by a high-level Alstom executive, two former executives of Alstom's U.S. subsidiary, and an Egyptian official who received bribes from Alstom. Alstom S.A., its Swiss subsidiary, and its consortium partner on several projects in Indonesia, Marubeni Corporation, all pleaded guilty to FCPA violations and paid more than \$850 million in fines. Alstom's fine of \$772 million represents the largest fine ever imposed by the Department in an FCPA case.

#### *Providing Expert Guidance and Advice*

- Developing and supporting effective crime reduction strategies and programs
- Driving policy, legislative, and regulatory reforms
- Providing expert counsel and training in criminal enforcement matters to state, local, and federal enforcement partners



## Expert Guidance and Legal Advice



The Criminal Division serves as the strategic hub of legal and enforcement experience, expertise, and strategy in the fight against national and international criminal threats. Consequently, its expert guidance and advice are crucial to the successful application of criminal law throughout the country. The Division leads the national effort to address emerging criminal trends, including the increasingly international scope of criminal activity. The guidance provided to U.S. Attorneys' Offices and other federal law enforcement partners promotes coordination, efficiently uses resources, leverages expertise, and furthers the Department of Justice's mission to ensure justice.

*Select Recent Criminal Division Accomplishments in Providing Expert Guidance and Advice*

- In Mexico, OPDAT's relationships with the three branches of the Mexican government have resulted in transformational changes in the Mexican justice sector. The past year has been particularly groundbreaking, as OPDAT Resident Legal Advisors (RLAs) have worked closely with the Mexican legislature and Office of the Attorney General (PGR) to develop Mexico's new Code of Criminal Procedure, which finally passed on February 5, 2014. The new code, which includes significant input from OPDAT, puts Mexico on a path towards an accusatorial system, and is the basis for a three year training program to prepare the PGR for the transition and greater coordination with the U.S. justice system.
- Through the Computer Crime and Intellectual Property Section (CCIPS), the Criminal Division has supported and expanded our U.S. Attorneys' Offices' expertise and capacity to tackle the most complex cybercrimes. CCIPS has worked over the last 12 years to build the Computer Hacking and Intellectual Property or "CHIP" Network with U.S. Attorneys' Offices across the nation, which is now over 270 prosecutors strong. That network has fostered a close partnership



Department of Justice  
Criminal Division

between CCIPS and the U.S. Attorneys' Offices in addressing the nation's most sophisticated computer crimes. In addition, over the last two years, the CHIP Network was used as the model for the National Security Cyber Specialists' network, a partnership among the National Security Division, the U.S. Attorneys' Offices, and CCIPS that focuses on cyber threats to national security.

- Supervision of civil penalty cases arising under the Controlled Substances Act falls within the assigned functions of the Assistant Attorney General, Criminal Division. Attorneys in the Policy Unit of the Narcotic and Dangerous Drug Section have consulted on many cases around the country. The Section has also assisted, as needed, in coordination of U.S. Attorney's Offices and DEA offices involved in multi-district, multi-faceted, and national cases; this role has become more frequent as the size and complexity of case investigations in this area has grown. Finally, the Section assists the USAOs when cases require front office review and approval, including cases involving individuals and entities registered with the DEA to manufacture, distribute, or dispense controlled substances.

#### Reviewing the Use of Sensitive Law Enforcement Tools



- Approving and overseeing the use of the most sophisticated investigative tools in the federal arsenal

The Division serves as the Department's "nerve center" for many critical operational matters. It is the Division's responsibility to ensure that investigators are effectively and appropriately using available sensitive law enforcement tools. These tools include Title III wiretaps, electronic evidence-gathering authorities, correspondent banking subpoenas, and the Witness Security Program. In the international arena, the Division manages the Department's relations with foreign counterparts and coordinates all



prisoner transfers, extraditions, and mutual legal assistance requests. Lastly, the Division handles numerous requests for approval from U.S. Attorneys' Offices to use sensitive law enforcement techniques, in conjunction with particular criminal statutes. For example, the Division reviews every racketeering indictment that is brought across the nation, supervises every Foreign Corrupt Practices Act case, and reviews all money laundering charges. In these ways, the Division serves a critical and unique role in ensuring consistency across districts and continuity over time, and the even-handed application of those statutes.

### *Select Recent Criminal Division Accomplishments in Reviewing the Use of Sensitive Law Enforcement Tools*

During FY 2015, the attorneys in the Division's Office of Enforcement Operations' Electronic Surveillance Unit reviewed 2,345 requests to conduct electronic surveillance, covering 8,070 facilities. Those requests continue to increase in complexity, reflecting targets' (primarily narcotics traffickers) ever-increasing efforts to conceal their criminal activities from law enforcement scrutiny and interference. Several of those cases involved obtaining authorization, for the first time ever, to conduct electronic surveillance on facilities using new and emerging technologies. In addition, the Unit continued to be very active in providing electronic surveillance training and guidance to Assistant United States Attorneys, as well as to investigative agents from many law enforcement agencies.

- The Division's Office of International Affairs (OIA) serves as the "central authority" for the entire United States under our international treaties for responding to mutual legal assistance (MLA) requests and sending MLA requests overseas. Since FY 2000, the number of requests for foreign authorities handled by OIA has increased nearly 85 percent. In FY 2015, OIA opened 3,119 foreign requests for assistance, and also granted assistance, in whole or in part, for 1,373 requests.

### **Fostering Global Partnerships**

- Helping international law enforcement partners build capacity to prosecute and investigate crime within their borders by providing training and assistance
- Negotiating Mutual Legal Assistance Treaties (MLATs) with international parties to enhance cooperative efforts with our foreign partners

The Division's lawyers and other personnel are located in countries around the world. Posts in ten countries are maintained to foster relationships and participate in operations with international law enforcement and prosecutors. The Division also has personnel who provide assistance to foreign governments in developing and maintaining viable criminal justice institutions. Two of the Division's sections, the International Criminal Investigative, Training and Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) promote cooperation in transnational criminal matters and build the capacity in partner nations to provide modern professional law enforcement services based on democratic principles and respect for human rights.

### *Select Recent Criminal Division Accomplishments in Fostering Global Partnerships*

- In 2014, OIA launched its Global Central Authorities Initiative, an initiative designed to assist strategically located countries develop the institutional architecture needed to combat the

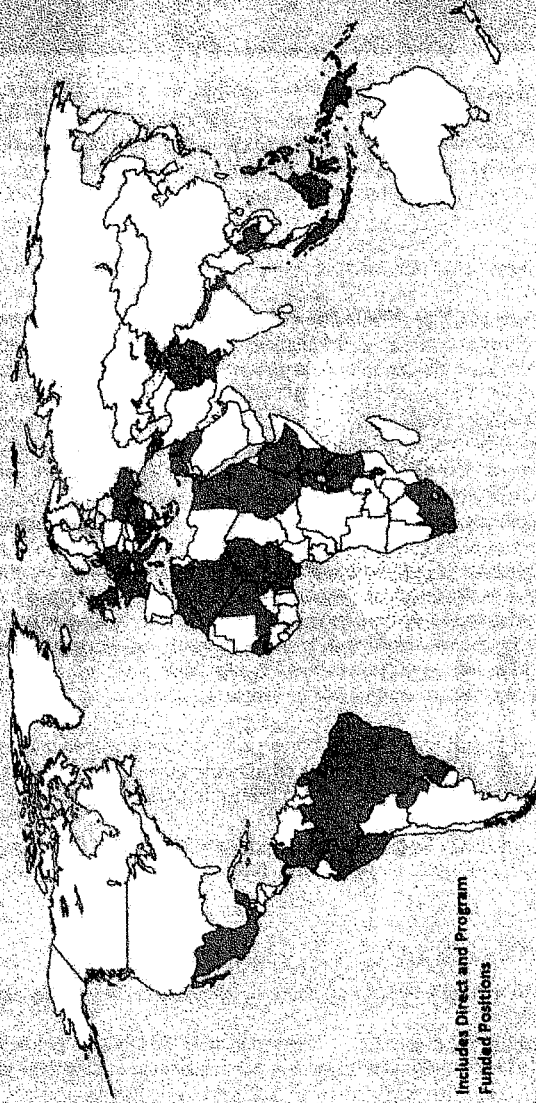


destabilizing forces of transnational crime and terrorism through effective international cooperation, mutual legal assistance, and extradition. This initiative has worked in partnership with the UN to facilitate training in Egypt, Morocco, Kenya, and elsewhere. Notably, the White House, on the heels of Indian Prime Minister Modi's visit to the United States, announced the approval of funding to permit OIA to launch "a new initiative to enhance bilateral Mutual Legal Assistance and extradition through a program of workshops and expert exchanges."

- At a ceremony on September 24, 2015, Mexico's prosecutor general's office (PGJ) of the State of Querétaro received an official certification title for its compliance with international ISO-IEC-17020:2012 standards in the area of Crime Scene Analysis. The certification was granted and presented by the ANSI-ASQ National Accreditation Board (ANAB)—a non-governmental organization that provides accreditation services to public- and private-sector organizations. The PGJ forensic laboratory in Querétaro is the first laboratory in Mexico (and only the second in all of Latin America) to receive this prestigious recognition in the area of Crime Scene Analysis. This hallmark achievement, through ICITAP's successful mentorship and expert-lead instruction, will both serve as a principle example for regional and international laboratories to follow, and assist the professionalization of Mexico's new accusatory system, while advancing the goal of greater cooperation between Mexican and U.S. security apparatuses. This milestone achievement is part of a large-scale forensics development program in Mexico. During FY15, ICITAP launched an extensive crime scene training initiative and first responder training program. In total, ICITAP provided 82 forensic training sessions, graduating 1,921 participants.
- OPDAT Resident Legal Advisors (RLAs) working on trafficking in persons in the Western Hemisphere are helping DOJ respond to the unaccompanied children crisis by delivering critical technical assistance to justice sector institutions in the region, as well providing information to Department leadership and Congressional delegations as to the root causes and circumstances surrounding the crisis. Specifically, the OPDAT RLA in Honduras is traveling across the region establishing relationships and promoting collaboration among the neighboring countries, while providing technical assistance in cases not only in Honduras, but also in Guatemala and El Salvador. In Mexico, OPDAT RLAs are expanding programming about human trafficking to include other countries in the region, contributing to a much-needed regional approach and collaboration on this issue that affects U.S. national security.



## Criminal Division Overseas Presence – All Sources





## Challenges to Achieving Outcomes

Many factors, both external and internal, affect the Criminal Division's capacity to accomplish its goals. While some of these factors are beyond its control, the Division strives to navigate these obstacles successfully, with an effort to minimize the negative impact these factors have on the Division's critical mission.

### *External Challenges*

1. **Globalization of Crime:** The increasing globalization of crime and the emergence of transnational threats will continue to bring new challenges to law enforcement, both at home and abroad. In its commitment to combat transnational threats, the Criminal Division develops criminal policies and legislation, while monitoring both national and transnational criminal trends. The Division is the central clearinghouse for all requests by foreign countries for evidence of crimes that may be in the United States and for all requests by U.S. law enforcement authorities for evidence of crimes that may reside abroad. The Division has the breadth of experience and the unique capability to build essential global partnerships to successfully combat transnational crimes, but requires critical resources to keep pace with the increasing demand for its services.
2. **Advances in Technology:** New technologies have generated cutting-edge methods for committing crimes, such as the use of the Internet to commit identity theft and the use of peer-to-peer software programs to share large volumes of child pornography in real time. These technologies continue to pose many challenges to law enforcement agents and prosecutors alike. The Division strives to keep pace with these cutting-edge methods of technology and provides training and assistance to other prosecutors and investigators.
3. **Weak International Rule of Law:** Some countries lack effective policies, laws, and judicial systems to investigate and prosecute criminals in their countries. These weaknesses create obstacles for the Division, as it tries to bring criminals to justice and seize their ill-gotten profits.
4. **Increasing Statutory Responsibilities in a Challenging Fiscal Environment:** New legislation that increases the Division's responsibilities has placed additional demands on the Division's resources.

### *Internal Challenges*

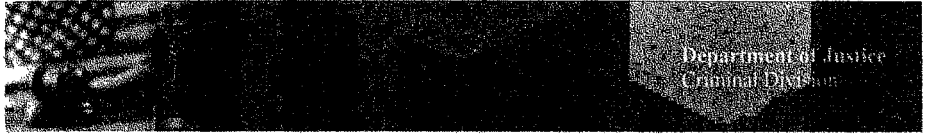
The Criminal Division faces a number of internal challenges due to growing demands. These challenges include the following:

1. **Automated Litigation Support:** Cases and matters the Division prosecutes and investigates are complicated and complex and require a massive amount of data to be processed and stored.
2. **Information and Network Security:** To stay one step ahead of criminals, the Division needs to acquire the most advanced IT equipment and software available. Additionally, it must ensure that it is invulnerable to cyber-attacks or computer intrusions.

## Budget & Performance Integration

This budget demonstrates how the Criminal Division's resources directly support the achievement of the Department's strategic goals and priorities – both nationally and internationally. The Division reports as





a single decision unit; therefore, its resources are presented in this budget, as a whole. Total costs represent both direct and indirect costs, including administrative functions and systems. The performance/resources table in Section IV of this budget provides further detail on the Division's performance-based budget.

### **Environmental Accountability**

The Criminal Division has taken significant steps to integrate environmental accountability into its daily operations:

- The Division is continuing to work with building management to install occupancy sensors in all offices in the Bond building to save energy. New light fixtures have been installed to satisfy energy saving requirements. These fixtures provide low wattage per square foot, with energy saving ballast and controls.
- The Division is continuing to work with building management to replace outdated/inefficient wall air conditioning units. The new units have state of the art electronic controls, increasing energy efficiency.
- The Division continues to take steps to improve the recycling and environmental awareness programs within the Division. The Division has a comprehensive recycling program that includes the distribution of individual recycling containers to every federal and contract employee, inclusion of recycling flyers in all new employee orientation packages, publication of energy and recycling articles in the Division's Security and Operations Support newsletter, and creation of a recycling section on the Division's Intranet site. The Division is in ongoing discussions with two of its leased buildings to use "Single Stream" recycling that would enhance the Division's program overall by removing the requirement for tenants to separate recyclables.
- The Division is replacing old pantry refrigerators and microwave ovens to Energy Star rated units to decrease electricity consumption and utility costs.
- The Division is continuing to work with building management to install electronic dampeners in the building ventilation system that will allow greater control over air flow to specific areas and decrease energy usage and costs.



## II. Summary of Program Changes

Item Name	Description	Dollars			Page
		Pos.	FTE	(\$000)	
MLAT Reform	The requested positions and resources would allow the Division to implement the three elements—(1) Centralization, (2) Training and Outreach, and (3) Reducing the Backlog - as the Department has defined to address the MLAT issues.	97	49	\$10,036	22
International Law Enforcement and Justice Development	This request would partially fund the headquarters operating expenses of its International Criminal Investigative Training Assistance Program (ICITAP), the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), and the Office of Administration's International Training and Financial Management unit (ITFM), which solely supports the financial management and execution of ICITAP's and OPDAT's programs.	61	31	\$4,964	32

## III. Appropriations Language and Analysis of Appropriations Language

The Criminal Division is part of the General Legal Activities (GLA) appropriation. The Division is requesting the following language be added to GLA's overall appropriation language.

...of which not to exceed \$9,000 shall be available for official reception and representation expenses for the Criminal Division...

The Criminal Division requests \$9,000 in representational fund authority for FY 2017 for the use of the three Criminal Division offices that represent the Department of Justice on international matters: the Office of International Affairs (OIA); the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT); and the International Criminal Investigative Training Assistance Program (ICITAP). On behalf of the Department of Justice, these offices deal with foreign counterparts on a daily basis, both in Washington and in their overseas posts. Yet these offices are not funded to provide, or to reciprocate to, even the most basic hospitalities that are integral to the conduct of international relations.

The Criminal Division's inability to fund hospitality measures undermines the fundamental objective of building overseas partnerships to fight terrorism and transnational crime. Because our foreign counterparts almost universally are funded to provide such hospitality, they logically assume that the United States must likewise provide representational funds to DOJ and may conclude that the Criminal Division's inability to fund gestures of hospitality means that we do not highly value the relationship. Accordingly, in order to build the relationships key to fighting terrorism and transnational crime, the Criminal Division's offices of OIA, OPDAT, and ICITAP seek this authority to advance the building of foreign relationships that are key to U.S. security.



#### IV. Program Activity Justification

##### Enforcing Federal Criminal Law

<i>Enforcing Federal Criminal Law</i>	<i>Direct Pos.</i>	<i>Estimate FTE</i>	<i>Amount (\$000)</i>
2015 Enacted	750	674	\$178,042,000
2016 Enacted	768	683	\$181,745,000
Adjustments to Base and Technical Adjustments	0	9	\$1,967,000
2017 Current Services	768	692	\$183,712,000
2017 Program Increases	158	80	\$15,000,000
2017 Program Offsets	0	0	\$0
2017 Request	926	772	\$198,712,000
<b>Total Change 2016-2017</b>	<b>158</b>	<b>89</b>	<b>\$16,967,000</b>

##### Program Description

The mission of the Criminal Division is to develop, enforce, and supervise the application of all federal criminal laws, except those specifically assigned to other divisions. The Criminal Division is situated at headquarters to work in partnership with both domestic and international law enforcement. While U.S. Attorneys and state and local prosecutors serve a specific jurisdiction, the Criminal Division addresses the need for centralized coordination, prosecution, and oversight.

The Division complements the work of its foreign and domestic law enforcement partners by centrally housing subject matter experts in all areas of federal criminal law, as reflected by the 17 Sections and Offices that make up the Division's Decision Unit "Enforcing Federal Criminal Laws:"

- Office of the Assistant Attorney General
- Office of Administration
- Asset Forfeiture and Money Laundering Section
- Appellate Section
- Computer Crime and Intellectual Property Section
- Capital Case Section
- Child Exploitation and Obscenity Section
- Fraud Section
- Human Rights and Special Prosecutions Section
- International Criminal Investigative Training Assistance Program
- Narcotic and Dangerous Drug Section
- Organized Crime and Gang Section
- Office of Enforcement Operations
- Office of International Affairs
- Office of Overseas Prosecutorial Development, Assistance, and Training
- Office of Policy and Legislation
- Public Integrity Section





Department of Justice  
Criminal Division

The concentration of formidable expertise, in a broad range of critical subject areas, strengthens and shapes the Department's efforts in bringing a broad perspective to areas of national and transnational criminal enforcement and prevention. To capture this range of expertise, the Division's Performance and Resource Table is organized into three functional categories: prosecutions and investigations; expert guidance and legal advice; and the review of critical law enforcement tools. In addition, the Table shows the Division's support of the Department's Strategic Goals and Objectives.



Performance and Resource Tables (dollars in thousands)

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Enforcing Federal Criminal Law											
RESOURCES											
		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0
Total Costs and FTE		971	\$178,042	904	\$177,992	1,031	\$181,746	112	\$16,967	1143	\$198,712
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0	FTE	\$0
TYPE	STRATEGIC OBJECTIVE										
Program Activity	1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 3.6	467	\$85,587	452	\$86,772	518	\$90,873	28	\$3,493	544	\$94,366
Workload		352		344		348		7		355	
Workload		278		225		166		3		169	
Workload		1,041		1,225		1,407		28		1,435	
Workload		2,595		2,745		840		17		857	
Workload		1,995		1,634		825		17		842	
Workload		3,915		4,454		4,469		89		4,558	
Workload		762		778		763		15		778	
Workload		805		719		634		13		647	
Workload		1,108		1,303		1,023		20		1,043	







## PERFORMANCE MEASURE TABLE

PERFORMANCE MEASURE TABLE																		
Decision Unit: Enforcing Federal Criminal Laws																		
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017			
			Actual		Actual		Actual		Actual		Actual		Actual		Actual		Target	Target
1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 3.6	OUTPUT Measure	Number of Legislative and Policy Analysis Matters Completed		7,458		5,875		6,493		6,304		4,668		6,834		5,640		5,696
	OUTPUT Measure	Number of Programmatic Coordination Activities		4,492		5,226		11,892		11,428		10,757		11,504		11,468		11,593
	OUTPUT Measure	Number of Legal Advisory Matters		24,438		39,726		42,986		39,620		35,054		38,082		34,482		34,827
	OUTPUT Measure	Number of Training Sessions/Presentations		3,612		3,845		5,133		3,628		4,053		4,637		4,655		4,702
	OUTPUT Measure	Number of Mandatory Review s Completed		19,237		19,090		26,977		21,477		19,218		26,713		18,467		18,836
	OUTCOME Measure	Favorably Resolved Criminal Cases		96%		93%		97%		98%		90%		99%		90%		90%
	OUTCOME Measure	Favorable Resolved Civil Cases		100%		N/A		100%		N/A		80%		100%		80%		80%



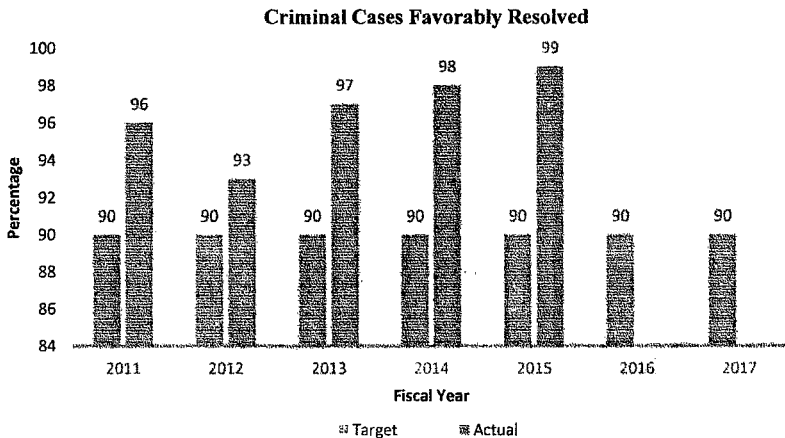


## Performance, Resources, and Strategies

### Performance Plan and Report for Outcomes

#### Outcome Measure

The Department's long-term outcome goal for its litigating divisions, including the Criminal Division, is the percentage of criminal and civil cases favorably resolved during the Fiscal Year. The goals are 90 percent (criminal) and 80 percent (civil). The Division has consistently met or exceeded the goals. In FY 2015, the Division met both outcome goals (99% criminal, 100% civil).



#### Prosecutions and Investigations Workload

The Division leads complex investigations and tries significant prosecutions. Many of these cases are of national significance, require international coordination, have precedent-setting implications, and involve the coordination of cross-jurisdictional investigations.

#### Other Critical Division Workload

In addition to investigating and prosecuting criminal cases, the Division plays a central role in the Department's mission by reviewing the use of critical law enforcement tools, including the approval of all requests for wiretapping under Title III. The Division also provides expert guidance and legal advice on significant legislative proposals, analyzes Department-wide and government-wide law enforcement policy, conducts training for the field, and engages in programmatic coordination.

#### Strategies to Accomplish Outcomes

The Criminal Division's mission is to develop, enforce, and exercise general oversight for all federal criminal laws. In fulfilling this mission, the Division plays a central role in assisting the Department in





accomplishing its Strategic Goals and Objectives. The Division contributes to ten of the Department's eighteen strategic objectives. The performance measures and outcome measures, reported in the budget, measure performance in a combination of strategic objectives covering the entire breadth of the Division's work.

### Priority Goals

The Criminal Division contributes to two of the Department's FY 2016-FY 2017 Priority Goals:

**Combating cyber threats:** Identify and pursue cyber threat actors. By September 30, 2017, the Department of Justice will disrupt and dismantle 1,000 cyber threat actors while successfully resolving 90 percent of both national security and criminal cyber cases.

**Fraud and Public Corruption:** Protect the American people from fraud and public corruption. By September 30, 2017, increase the number of new investigations by 2 percent with emphasis on holding individuals accountable associated with fraud and public corruption, including white collar crime, financial fraud, and health care fraud.

The Division's progress regarding these two goals is reported quarterly to the Department.

## V. Program Increases by Item

**Item Name:** **Mutual Legal Assistance Treaty (MLAT) Reform**

**Strategic Goal:** **1, 2, and 3**

**Strategic Objective:** **1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, and 3.6**

**Budget Decision Unit(s):** **Enforcing Federal Criminal Law**

**Organizational Program:** **Criminal Division**

**Program Increase:** Positions **97** Atty **54** FTE **49** Dollars **\$10,036,000**

**Description of Item**

In order to safeguard our nation and our citizens, it is essential that we transform the manner in which we conduct international mutual legal assistance in criminal and counterterrorism investigations. Without such a transformation, our international law enforcement relationships, U.S. internet and online service providers (ISPs), and the multi-stakeholder model of the internet are at risk. It is critical that the United States actively and promptly share law enforcement information with our foreign partners. International and domestic criminals and terrorists use the internet regularly to carry out their illicit activities. Law enforcement authorities around the world struggle to keep pace with criminals' use of the internet for crime that go beyond cybercrime. The internet is used to advance physical world crimes in countries all over the globe. The dominance and reliability of the services of U.S. internet and online service providers are attractive features that criminals rely upon as they plan and carry out their crimes. As a result, foreign law enforcement partners increasingly look to the United States for assistance in gathering internet records to investigate crime.





United States and foreign law enforcement authorities make formal requests to each other for evidence in criminal cases through a process referred to as “mutual legal assistance” (MLA), made often through our Mutual Legal Assistance Treaties (MLATs). The Criminal Division’s Office of International Affairs (OIA) serves as the “central authority” for the entire United States under our international treaties for responding to MLA requests and sending MLA requests abroad. State, local, and federal prosecutors in the United States work through OIA to obtain foreign evidence in their cases, and foreign prosecutors send their requests for evidence located in the United States to OIA.

Since 2000, the number of foreign requests for assistance to OIA has increased nearly 85% and the number of requests for computer records has increased over 1000%. Staffing and resources at OIA have not kept pace with the growth in its work. Until very recently, OIA’s staffing levels, due to sequestration and to the Department’s hiring freeze, had been very low. The low staffing levels and dramatic growth of mutual legal assistance requests created a significant backlog and delays in response time for foreign partners. The stringent requirements of the U.S. legal regime for obtaining evidence of electronic communications contribute to the delays and difficulties in providing prompt responses to foreign requests. These delays jeopardize the effectiveness of U.S. law enforcement relationships abroad and undermine our diplomatic efforts. Delays in providing foreign authorities the evidence to prosecute crime and terrorism in their countries damage our interests in effective law enforcement worldwide and threatens reciprocal cooperation when we seek evidence from other countries for our own cases.

To reverse the dynamic and address these challenges, OIA developed a new framework to effect a paradigm shift in how the United States provides mutual legal assistance to its foreign partners. The new framework is anchored by a three component Solutions and Resourcing Strategy: Centralization; Training and Outreach; and Reducing the Backlog. During fiscal year 2015, and with the help of an intra-department transfer of funds in May 2015, OIA has shown in just a few months that it can make tremendous strides and progress toward faster and more efficient international evidence sharing. If OIA is provided with the resources it needs to complete the paradigm shift, we can make our nation safer, by ensuring that foreign authorities have the evidence to prosecute crime and terrorism before it reaches our shores, and by leading to greater reciprocal cooperation in our own cases.

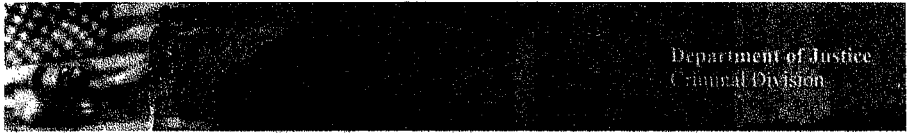
The Criminal Division requests an increase of **97 positions (54 attorneys), 49 FTE, and \$10,036,000** to modernize the MLA process.

#### Justification

The President, through his National Security Strategy, recognized the centrality of international mutual cooperation in criminal justice and counterterrorism matters. The Strategy calls for our law enforcement agencies to “cooperate effectively with foreign governments” in order to “provide safety and security,” and, in particular, states that the U.S. will “strengthen our international partnerships” to counter cybersecurity threats. To this end, President Obama has called upon our allies and partners to “join in building a new framework for international cooperation to protect all our citizens from the violence, harm, and exploitation wrought by transnational organized crime.”

We can build the “new framework for international cooperation” envisaged by the President’s National Security Strategy. To do so, the Criminal Division’s OIA must be provided with the resources necessary to modernize the process by which MLA requests are handled and receive resources so that those requests can be handled in a timely manner. MLA requests generally are made in the following situations: (1) if a court order is needed to obtain the evidence; (2) to meet formalities to assure the evidence is admissible; and/or (3) where use of the MLAT process is dictated by the domestic law of one of the two countries. OIA is well on its way to modernizing and streamlining the MLA process and improving response times





for our foreign partners. The Department's investment of \$13 million in OIA and supporting offices in the Criminal Division has begun to pay dividends in productivity and efficiencies for OIA. Resources for OIA secured by an appropriation would ensure the elimination of the backlog of cases and enhance OIA's ability to respond to requests for evidence and assistance in a timely manner.

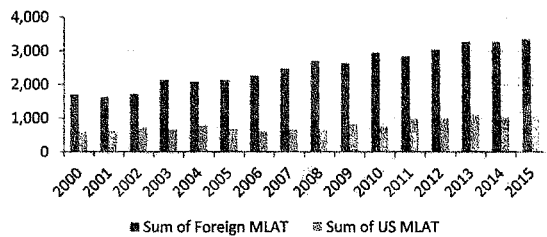
Importantly, not all OIA resources can be devoted to MLA requests. OIA's work with foreign MLATs is only one of several of its unique, and largely non-discretionary functions, including preparing U.S. requests for extradition of foreign fugitives and working with foreign authorities to secure the surrender of fugitives; preparing all U.S. requests for foreign evidence and witnesses; negotiating all extradition and mutual legal assistance treaties, related international agreements; and formulating international criminal justice policy. OIA opens approximately 1,000 fugitive requests alone every year and has a total of over 12,000 pending extradition and MLA cases.

#### Keeping Pace with the Global Demand for OIA's Work

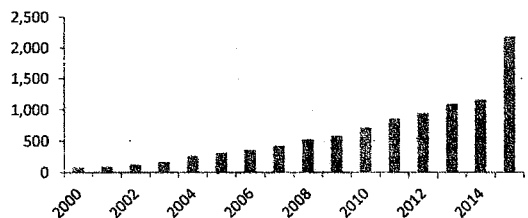
Since FY 2000, the number of requests for assistance from foreign authorities handled by OIA has increased nearly 85%, and the number of requests for computer records has increased over 1,000%. In FY 2015, OIA opened 3,119 foreign requests for assistance. That same year, OIA granted assistance in whole or in part, in 1,373 cases, or 44% of the requests.

The growth of foreign requests for computer or Internet or Online Service Provider (ISP) records far outpaces that for MLA requests generally. The increased number of cases is not the only challenge, however. OIA has seen a dramatic growth in mutual legal assistance requests for ISP records. The high legal standards for obtaining ISP records, particularly for the content of communications, makes the process of evaluating foreign requests difficult and time consuming. The legal standard required when content of communications is sought is probable cause – typically requiring a search warrant – and OIA usually must work closely with our foreign partners and U.S. law enforcement agents stationed abroad to compile the evidence and prepare the required documents to secure court approval.

**New MLAT Requests by Fiscal Year**



**Foreign MLAT Requests for Computer Records by Fiscal Year**



The delays in responding to requests for ISP records in particular threaten the competitiveness of ISPs and our model of Internet governance. Because of the difficulties in timely responses to foreign requests for ISP records, we have seen increased foreign calls for moving or mirroring U.S. ISP data storage overseas;





foreign demands that U.S. ISPs produce information directly in response to foreign orders; and foreign proposals that U.S. ISPs be subjected to national or multilateral data protection regimes. These proposals place U.S. companies in difficult positions and threaten our own cybersecurity.

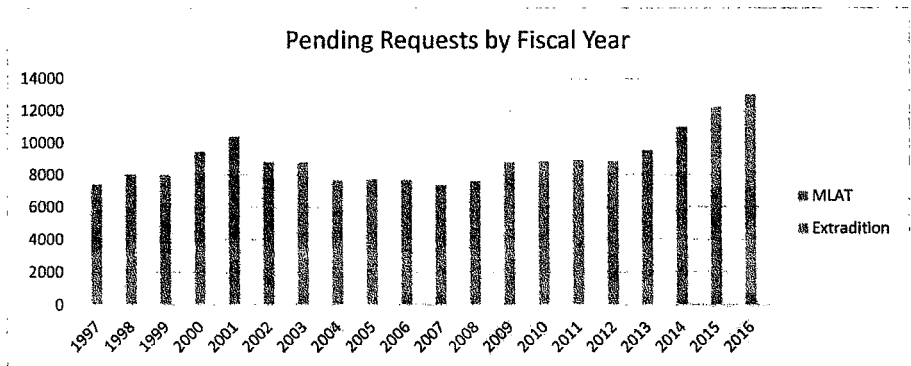
While its workload has dramatically increased, until very recently OIA has seen minimal changes in its staffing, and in fact suffered significant attrition during the Department-wide hiring freeze. The significant period of short staffing has increased OIA's case backlog.

### Eliminating Duplicative Work

President Obama signed into law the *Foreign Evidence Request Efficiency Act of 2009*, codified at Title 18, United States Code Section 3512, which, among other things, was intended to implement efficiencies and create flexibility in the execution of foreign assistance requests. It creates venue in the District of Columbia for court orders to compel the production of evidence sought by foreign authorities. This significant structural change allows OIA to respond directly to requests for evidence that require court orders, rather than working through U.S. Attorneys' Offices (USAOs) in the district in which the evidence is located. Through this legislation, the Obama Administration has made possible a paradigm shift in how mutual legal assistance requests are handled; but to actualize this shift, OIA requires additional legal and professional personnel to undertake work currently performed by USAOs.

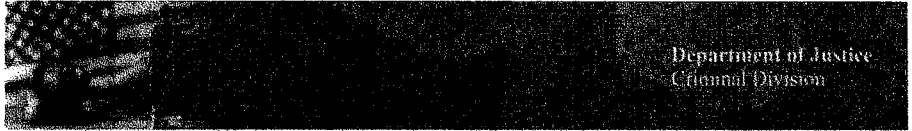
Because of the lack of OIA resources, OIA relies on USAOs to handle many requests for evidence. This process results in many inefficiencies. Assistant U.S. Attorneys (AUSAs) often defer execution of foreign MLA requests while they address more pressing cases in their districts. Moreover, duplication of efforts occurs because all matters must be reviewed by OIA for legal sufficiency and consistency with DOJ and federal policy, but all matters that are referred to the USAOs for execution are likewise reviewed for legal sufficiency by the AUSAs responsible for securing the necessary court orders.

Between FYs 2002 and 2008, OIA managed its steadily increasing volume of work without additional resources, through the efficient use of paralegals and improved case management practices. In FY 2009, however, OIA reached its saturation point and its backlog began to increase steadily as a result. In FY 2015, as illustrated in the chart below, OIA's backlog reached more than 12,000 cases.



Currently, OIA is handling approximately 6,000 requests from U.S. prosecutors directed to foreign countries for the return of fugitives and production of evidence, and approximately 7,200 requests for





fugitives and evidence received from foreign counterparts. Approximately 6,400 of those foreign requests are for evidence, and of that 6,400, approximately 2,100 of the requests are for computer records.

Based on historical experience and a qualitative review of OIA's existing process, it has been determined that between 120 and 150 cases would be a manageable caseload per OIA attorney under the current model, where AUSAs are still responsible for court filings and appearances. Yet, OIA case attorneys currently carry nearly three times the manageable caseload -- an average caseload of 362 cases each -- a caseload that has increased 81 percent in the last six years, from an estimated caseload of 200 cases per attorney in FY 2008.

**Projected OIA Backlog Increases FY 2016-2021  
(No Additional Resources)<sup>1</sup>**

FY	Projected Backlog	Projected Caseload Backlog per Attorney
2016	13,443	269
2017	14,173	283
2018	15,152	303
2019	16,392	328
2020	17,901	358
2021	19,512	390

OIA has been rendered unable to meet all incoming foreign requests, even after refusing cases on "*de minimis*" grounds, over the objections of the Department's foreign counterparts that there is no treaty exception for such cases. As a result, we are facing criticisms and increasing frustration from our foreign counterparts, such as:

- In October 2015, during a meeting on mutual legal assistance issues between OIA representatives and foreign counterparts at EUROJUST, in The Hague, representatives from several European countries expressed displeasure and frustration with OIA's *de minimis* policy.
- In December 2015 the Colombian Fiscalía expressed their displeasure with our *de minimis* determination in a case we characterized as "less serious."

**Solutions and Resourcing Strategy**

Several concurrent approaches are required to address this multi-faceted problem, namely: (1) centralization; (2) training and outreach; and (3) reducing the backlog.

Centralizing the handling of requests within OIA as envisioned by the *Foreign Evidence Request Efficiency Act of 2009* will yield the most efficient and effective MLAT process. In addition, coordinated training and outreach to foreign partners is critical to ensure MLAT requests meet U.S. legal standards. There is an urgent need for increased resources to reduce the backlog and keep pace with incoming requests. During this past fiscal year, with the Department's \$13 million transfer, OIA created two new dedicated units to review, analyze and execute foreign requests for assistance. These two units, staffed by

<sup>1</sup> These projections are based on FY 2014 pending cases and attorney resources as well as anticipated increases in caseload. Actual case execution and changes to pending cases can vary depending on the types of requests OIA receives and the personnel resources available to execute them.





OIA attorneys who file matters in the U.S. District Court for the District of Columbia, are dedicated to processing foreign requests for evidence of electronic communications and to processing foreign requests for bank and third party records. OIA revitalized its litigation and legal policy unit to provide guidance, advice, and expertise to U.S. and foreign prosecutors.

Since fiscal year 2015, OIA has been steadily hiring new personnel to fill vacancies that resulted from sequestration and the hiring freeze and with the Department's assistance of a \$13 million transfer of funds. Since the receipt of funds, OIA has hired 34 new employees: 31 in 2015, and 3 in 2016. As of January 2016, OIA has selected 31 candidates who are pending at various stages of the hiring pipeline. Of the 31 candidates, 20 are attorneys and 11 are International Affairs Specialists (IAS).

In addition, OIA made significant improvements to its infrastructure by implementing recommendations from a business process analysis review by hiring management professionals to help OIA manage its growth, analyze caseloads, and improve performance measures and metrics. Separate from the workload-oriented strategy, OIA established a Management & Administration (M&A) Team, which includes three newly assigned positions: Assistant Director, Docketing Supervisor, and Administrative Officer. The M&A Team handles all administrative tasks, serves as the direct liaison to the Criminal Division Administrative Offices, and executes specific tasks involving: project management, process improvement, and records management within OIA. The Team is also responsible for the oversight and implementation of the Atlas Program. Atlas is an online case management tool that will provide automated support for reports and all five of the request types that OIA receives: incoming MLAT, outgoing MLAT, incoming extradition, outgoing extradition, and mandatory review. Atlas will improve processing efficiency and reduce the amount of duplicative work. At a higher level, Atlas will provide process transparency and generate robust reporting metrics.

#### 1. Centralization:

The Department requires additional permanent resources to make full use of the authorities provided by the 2009 legislation and to centralize the execution of foreign MLA requests. OIA will build upon the strong foundation established by the intra-department transfer. During this past fiscal year OIA has worked with the USAO in the District of Columbia, rather than distributing the requests to USAOs in the districts in which the evidence is located. During the past year, OIA built on a pilot project that began in May 2013, with the support and expertise of the Criminal Division's Computer Crime and Intellectual Property Section (CCIPS) and the USAO in the District of Columbia to refine and centralize the process.

OIA has also established a "Cyber Unit" dedicated to reviewing, analyzing, and filing foreign requests for electronic evidence in the District of Columbia. That unit, working in conjunction with the U.S. Attorneys' Offices in the District of Columbia and the Northern District of California, has expedited the review and processing of legally sufficient requests for electronic communications. Initially the unit focused on processing requests for subscriber and transactional information to assist many of our foreign partners in getting started with their investigations and in helping gather evidence to eventually meet the probable cause standard required for searches for the content of communications. To date, the unit has successfully processed requests for evidence for over 700 online accounts.

The Cyber Unit, working with a newly-established dedicated MLAT unit at FBI Headquarters' International Operations Division, has also begun to process requests for search warrants for the content of online communications. To date, approximately 20 search warrants for content have been processed with the new unit and plans continue to expand in this area.





Through these efforts, OIA has been steadily working to reduce the backlog of cases and cut response times to our foreign partners. Much of OIA's time has been focused on hiring, onboarding, and training new employees to perform OIA's specialized work. A few matters involving physical searches, witness interviews, or related case investigations will continue to be referred to USAOs where the evidence is located, and the USAO in the Northern District of California will need to deal directly with ISPs on novel or particularly complex issues. Further efforts toward centralization, enabled by additional permanent resources, will significantly reduce the delays and redundancy in the handling the vast majority of MLA requests.

## **2. Training and Outreach:**

Training our foreign counterparts, particularly from different legal systems, continues to be critical to improving the MLAT process. Many foreign partners require assistance in showing that the probable cause standard required to receive the content of communications is met. The Department of Justice – OIA, CCIPS and the FBI – will develop a comprehensive program to train foreign authorities in U.S. legal standards for obtaining evidence and in cyber investigations as each office is adequately resourced to take on this additional function.

During the past fiscal year, by making use of rehired annuitants, OIA developed a comprehensive in-house training program for its new and existing attorneys that has been extremely well-received. Specialized training has also been developed and conducted for attorneys hired specifically to work on MLAT modernization, and work with the AUSAs in the USAOs in the District of Columbia and the Northern District of California to secure uniformity and guidelines for review and tracking.

Additionally, as OIA is permanently resourced, DOJ, with the Department of State, would engage in outreach with foreign governments and encourage them to empower their MLAT "Central Authorities" (or equivalents) so that they can screen their own requests for evidence located in the United States and help their prosecutors and law enforcement agencies in making MLA requests that meet U.S. legal standards. Throughout the past year OIA has conducted training for foreign counterparts during regularly scheduled consultations and participated in workshops to develop central authorities in certain regions of the world, including North Africa.

By focusing training on high-volume MLAT partners who have particular difficulty in meeting U.S. legal standards and working with sophisticated partners who are already eager to engage in improving MLAT success, the quality of the requests received should improve and result in faster processing times. If funding is received, OIA would assign DOJ Attachés to work directly with foreign counterparts in countries such as Brazil and Turkey, as well as other important partners such as Germany, the Dominican Republic, Australia and Eastern Europe. These in-country attachés would be able to work directly with foreign counterparts, as well as U.S. Embassy law enforcement agency attachés, to resolve problems and address legal and treaty issues in complex and urgent cases before requests are sent to OIA, and to provide consistent, hands-on advice to cure systemic problems.

## **3. Reducing the Backlog:**

Additional resources are needed to address the current backlog of pending MLA requests. During this past year, OIA created and began to staff an "intake unit" known as the Incoming MLAT unit to handle foreign MLA requests for bank and third party records. A review of OIA's workload shows that the highest volume of foreign requests received by OIA is for bank and business records. Additional permanent personnel resources would directly reduce response time.





Once adequately staffed, OIA would strive first to reduce its pending case levels to its 2008 low of approximately 7,500. This would include reducing backlogs of cases at OIA and among cases already awaiting action at USAOs. It is expected that the additional resources would, over time, allow OIA to eliminate the backlog, so that the number of cases closed in a given year will match (if not exceed) the number of new cases opened. These additional attorneys will not only handle any existing backlog, but will also take on new MLAT and extradition requests, and some will be dedicated to supporting the necessary operation of the office, including legislative and policy development, litigation, and management.

### Impact on Performance

The requested positions will allow the Division to implement the three elements — (1) centralization, (2) training and outreach, and (3) reducing the backlog—that the Department has identified as required to modernize the handling of MLA requests. Because MLA requests involve numerous types of crime, including terrorism and threats to our national security, child exploitation, financial fraud, transnational organized crime, and cybercrime, fulfilling this request will contribute to accomplishing many of the Department’s Strategic Objectives found in the Department’s 2014-2018 Strategic Plan.

- *Goal One: Prevent Terrorism and Promote the Nation’s Security Consistent with the Rule of Law*
  - 1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats
  - 1.2 Prosecute those involved in terrorist acts
  - 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors
- *Goal Two: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law*
  - 2.1 Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers
  - 2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to, America’s crime victims
  - 2.3 Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of illicit drugs
  - 2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime
  - 2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices
- *Goal Three: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels*
  - 3.1 Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders through innovative leadership and programs
  - 3.6 Prevent and respond to genocide and mass atrocities and ensure that perpetrators of such crimes are held accountable in the United States, and if appropriate, their home countries





### Conclusion

The MLAT handling process must be overhauled in a comprehensive and responsible manner to address the globalization of crime and growth of electronic communications, and to ensure U.S. law enforcement retains the ability to seek reciprocal assistance from foreign partners. Just as critical is our need to safeguard U.S. security and economic interests that have become threatened by foreign frustration with a U.S. predominance of the Internet that is coupled with a perceived U.S. unresponsiveness to foreign authorities' need for U.S.-based evidence. These actions would undercut key arguments for "decentralizing" the Internet or negotiating a new U.N. Cybercrime Convention; demonstrate that effective cooperation is possible under the Budapest Cybercrime Convention; and demonstrate that the United States is leading the transformation of the way that MLA requests are handled worldwide.

### **Funding** Dollars in thousands

#### Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services				FY 2017 Request			
Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)
90	61	82	\$19,982	90	61	82	\$19,982	90	61	82	\$20,198	187	115	131	\$30,234

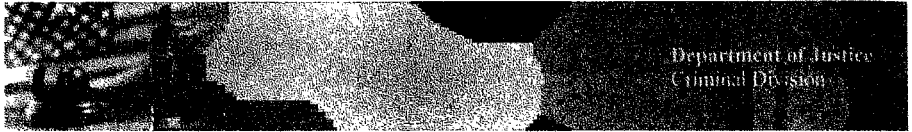
#### Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
Attorneys (0905) (Domestic)	\$122	50	\$6,100	\$5,350	\$0
Attorneys (0905) (Foreign)	\$248	4	\$992	\$580	\$0
Paralegals / Other Law (0900-0999)	\$68	41	\$2,788	\$1,763	\$2,173
Clerical and Office Services (0300-0399)	\$59	2	\$118	\$74	\$0
<b>Total Personnel</b>	N/A	97	\$9,998	\$7,767	\$2,173

#### Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
Foreign Service National	60	4	\$38	\$202	\$0
<b>Total Non-Personnel</b>	N/A	N/A	\$38	\$202	\$0





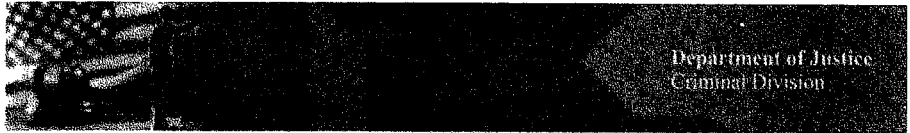
Total Request for this Item

	Pos	Atty	FTE	Personnel	Non- Personnel	Total	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
Current Services	90	61	82	\$20,198	0	\$20,198	\$0	\$0
Increases	97	54	4	\$9,998	\$38	\$10,036	\$7,969	\$2,173
Grand Total	187	115	86	\$30,196	\$38	\$30,234	\$7,969	\$2,173

Affected Crosscuts

1. Afghanistan
2. Cyber Crime
3. International Activities
4. National Security





**Item Name:** **International Law Enforcement and Justice Development**

Strategic Goal: 1, 2, and 3  
 Strategic Objective: 1.1, 1.2, 1.4, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, and 3.6  
 Budget Decision Unit: Enforcing Federal Criminal Laws  
 Organizational Program: Criminal Division

Program Increase: Positions 61 Atty 8 FTE 31 Dollars \$4,964,000

#### Description of Item

The Criminal Division is requesting **61 positions (8 attorneys), 31 FTE, and \$4,964,000** to partially fund the headquarters operating expenses of its International Criminal Investigative Training Assistance Program (ICITAP), the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), and the Office of Administration's International Training Financial Management unit (ITFM), which solely supports the financial management and execution of ICITAP's and OPDAT's programs.

#### Justification

ICITAP's and OPDAT's headquarters operations are vital to the funding, origination, development, oversight, management, and implementation of DOJ's foreign assistance programs. Headquarters personnel participate in numerous interagency initiatives, develop program plans and proposals, ensure funding for and oversight of program implementation, liaise with international partners, apply extensive institutional knowledge of justice sector standards and development assistance best practices, and advocate on behalf of the Attorney General. They also have a unique role in coordinating the Department's Security Sector Assistance programs with the rest of the U.S. interagency, primarily the Department of State. Without their efforts, the Department would have no cohesive and holistic voice in the interagency Security Sector Assistance (SSA) process, or in related rule of law and governance assistance discussions and decision-making. Indeed, there would be no DOJ agency dedicated solely to overseas SSA programs, which could significantly undermine our national security.

As presently structured, the vast majority of funding for the headquarters and field operations of both sections comes from Interagency Agreements (IAAs) and the overhead provided for in these agreements. Currently, only a portion of the management for ICITAP and OPDAT are funded out of departmental resources. Indicative of the importance of ICITAP and OPDAT to the mission of the Department, the Division allocated \$1.5 million of its FY 2016 appropriation to ICITAP and OPDAT. Although it is a small portion of the full funding necessary for ICITAP and OPDAT headquarters operations, it reflects both the Division's commitment to these two offices and support for their critical contributions to the Division and the Department. The budget items requested are solely for the support of the base operations of ICITAP, OPDAT, and ITFM, to include headquarters salaries, office space, and related headquarters business needs. The budget items requested are not for assistance programs, which would continue to be funded through IAAs.

Base operating budgets for ICITAP and OPDAT headquarters are essential to the Department's ability to fulfill its critical role and increased responsibilities under Presidential Policy Directive 23 on Security Sector Assistance (PPD-23), which significantly advances the Department's own priorities and builds upon OPDAT and ICITAP's solid track record. According to the National Security Council, there will be a surge of SSA activity in the coming year, which will require even more attention and engagement by ICITAP and OPDAT.





Base budgets will enable the Department to maintain a core group of experienced justice sector assistance experts at ICITAP and OPDAT to:

- sustain a consistent presence in ongoing interagency SSA policy, strategic planning, and program development activities;
- participate in interagency assessments and deftly manage implementation of SSA in priority countries; and
- be ready to swiftly and effectively respond in times of crisis or emergency.

#### *Current Funding Source Is Unpredictable and Undermines Mission Objectives*

Currently, the headquarters operations of ICITAP and OPDAT are funded through a negotiated percentage of each IAA with their funders, primarily the Department of State (State). This funding model has proven to be very unpredictable and, therefore, inefficient.

In any given year, these two offices—and accordingly the Division and the Department—are unsure how much funding they will have to operate. Furthermore, the timing, planning, and focus of the offices' assistance programs are almost totally dependent on the priorities of the funding agencies, which prevents the Division from fully leveraging its expertise in a timely manner as it relates to the justice sector and rule of law priorities of the Department.

In underwriting the annual headquarters operating expenses of ICITAP and OPDAT, the Department of Justice will establish a stable funding source for its overseas SSA and related rule of law and good governance initiatives, in support of the U.S. government's national security missions and foreign policy priorities.

#### *Security Sector Assistance is the Responsibility of ICITAP and OPDAT*

Through ICITAP and OPDAT, the Department of Justice plays a central role in the policy formulation, strategic development, and implementation of global assistance programs that further U.S. national security interests. As described below, PPD-23 calls for an integrated interagency approach to international Security Sector Assistance. For this reason, one of the Department's three strategies to achieve Objective 1.1 of the Department of Justice Strategic Plan for 2014-2018 (DOJ Strategic Plan) is to, "Build and maintain a Security Sector Assistance workforce aimed at strengthening the ability of the United States to promote national security by assisting allies and partner nations to build their own security capacity." The two components most responsible for Department of Justice SSA to partner nations are ICITAP and OPDAT. It is therefore incumbent on the Department to maintain and secure the base operations of ICITAP and OPDAT in order to achieve Objective 1.1 and to meet its SSA commitments.

PPD-23, which was signed by President Obama on April 5, 2013, mandates a whole-of-government approach to the government's policy development, strategic planning, engagement, and implementation of international SSA. The Directive is, "aimed at strengthening the ability of the United States to help allies and partner nations build their own security capacity, consistent with the principles of good governance and the rule of law." SSA, as defined in PPD-23, includes assistance to international partners who are "state security and law enforcement providers, government security and justice management and oversight bodies, civil society, institutions responsible for border management, customs and civil emergencies, and non-state justice and security providers."





The Department of Justice, along with the Departments of Homeland Security and Treasury, is a presumptive implementer of SSA in areas “involving [those agencies’] expertise, experience, or counterpart ministries, agencies, or equivalents,” including counterterrorism and justice sector matters. In addition to implementation responsibilities, the Department of Justice is expected to be a full participant in policy formulation, as well as assistance program planning and development. This is consistent with the whole-of-government approach articulated in the National Security Strategy, the State Department’s 2015 Quadrennial Diplomacy and Development Review (QDDR), and the Presidential Policy Directive 6 on Global Development.

The Department currently participates in a broad array of interagency initiatives that address security sector interests, as well as complementary rule of law and good governance issues. As the U.S. government focuses its attention on PPD-23 in the coming year, there will be increased demands on the Department to actively participate in ongoing interagency policy formulation, strategic planning, assessment, program design, and SSA delivery. While the Department of State will lead the implementation of PPD-23, the Department of Justice plays a critical role in the development and implementation of SSA policy, planning, and programming.

In order to meet its responsibilities and duties under the DOJ Strategic Plan and PPD-23, the Department must seek critical funding for the primary components responsible for leading its SSA efforts: ICITAP and OPDAT. A base budget for these two offices will enable the Department of Justice to continue to be a full participant in the interagency SSA process and thereby meet the Attorney General’s goals as well as fulfill the President’s mandate for SSA.

ICITAP and OPDAT are recognized within the interagency and by foreign counterparts as having a longstanding record of excellence in the area of SSA, and they thus provide an existing, credible platform upon which the Department can build its capacity to deliver SSA. Both organizations possess highly qualified and experienced headquarters personnel with significant expertise in developing and implementing effective and sustainable overseas SSA and related assistance in the rule of law and governance areas. No other components within the Department of Justice currently provide this expertise and function for the Department.

Specifically, ICITAP furnishes development assistance and training to foreign police, criminal and anticorruption investigative entities, forensic laboratories, and correctional systems. OPDAT helps to develop sustainable foreign justice sector institutions, including prosecutors and courts, and legislation consistent with international standards. Jointly, ICITAP and OPDAT strengthen the capacities of foreign criminal justice institutions to work together to both prevent and reduce transnational crime and terrorism and to ensure the fair, effective, and secure administration of justice. They promote evidence-based investigations and prosecutions, the safeguarding of human rights, and adherence to international norms and best practices. Further, ICITAP and OPDAT work together to harness the expertise of other Department components and offices to provide cohesive policy and program development and implementation. ICITAP and OPDAT ultimately help to establish interoperability and cooperation between the U.S. and foreign criminal justice systems.

Currently, the combined global reach of ICITAP and OPDAT spans more than 150 countries worldwide. In nearly 50 of these countries, ICITAP and OPDAT have established field offices and deployed federal staffs who serve as members of the U.S. embassy team. These individuals are subject matter experts who reside in the host country on a long-term basis to help foreign counterparts achieve complex objectives, such as the creation and passage of new legislation and the development of new law enforcement policies and procedures based on new or existing laws and international standards. These subject matter experts develop country-specific knowledge of law enforcement capabilities and culture and establish enduring



relationships with local law enforcement and government officials. Additionally, headquarters personnel oversee the implementation of regional and bilateral programs involving countries where there is no ICITAP or OPDAT field office.

Such relationships are critical to developing strong international partners for the Department of Justice. Crimes committed in the United States often have ties to networks or operations in other countries. To address these threats, the relationships developed by ICITAP and OPDAT with our foreign counterparts enable DOJ to combat transnational crime, including terrorism, at its source—in line with Goal 3 of the Department's FY 2014-18 Strategic Plan, and, in particular, Objective 3.1.

#### *ICITAP and OPDAT Protect and Promote National Security*

The development of the capacity of foreign justice components—including police, prosecutorial, forensics, and corrections services—is not simply a matter of foreign assistance, it is also a matter of our national security. Properly conducted, such development helps protect the United States in two ways:

- It provides the foreign country with the means to investigate and prosecute terrorism and transnational crime, before it reaches the borders of the United States; and
- It provides the United States with effective foreign law enforcement partners on whom we can draw to address terrorism and transnational criminal issues that do reach the United States.

The national security interests of the United States in this regard are particularly vital when the foreign countries in question are ones that require significant reconstruction and stabilization, for it is precisely these countries that can become havens for transnational crime and terrorism.

Consistent with the DOJ Strategic Plan and PPD-23, the Department, through the Criminal Division, and specifically through ICITAP and OPDAT, is playing an ever-increasing and central role in U.S. government-funded international SSA programs and associated rule of law development initiatives. This central role strengthens the Department's ability to achieve the top priority goal of its FY 2014-18 Strategic Plan: "Protect Americans from terrorism and other threats to National Security." To perform this role effectively at home and abroad, the Division must maintain a permanent capacity to manage these complex global programs. The Division's knowledge and expertise—not only in the development of international best practices, but also in the establishment of critical relationships with foreign law enforcement and criminal justice sector counterparts through ICITAP and OPDAT—are inextricably linked to and underpin the Department's efforts to investigate and prosecute terrorists and international criminal groups.

#### *Permanent Funding Source Will Enable the Division to Fulfill Priority Objectives*

Given their longstanding, unique expertise and experience in international justice sector development assistance, ICITAP and OPDAT are best suited to lead in SSA and related international rule of law and good governance efforts. With permanent funding, ICITAP and OPDAT will, for the first time, establish a stable platform for planning and implementing criminal justice reform and capacity building programs abroad, ensuring the consistent use of best practices and also maximizing the influence of the Department's resident knowledge and expertise in key policy and strategic decision-making regarding SSA and related rule of law matters. Most importantly, this would demonstrate the Department of Justice's commitment to lead and coordinate overseas justice sector and rule of law activities as a full partner of the Department of State and other agencies engaged in this whole-of-government endeavor.





Department of Justice  
Criminal Division

The requested funds would also permit both sections to maintain the appropriate level of staffing to enable the Criminal Division to carry out critical coordinating functions and other responsibilities in support of national security and other high priority international law enforcement goals such as:

- **Fighting Terrorism to Protect the U.S. and Its Allies.** ICITAP and OPDAT work with partner nations to fight terrorism, counter violent extremism, and sustain moderate, secular institutions. For example,
  - As a result of OPDAT assistance, **Indonesia** achieved a milestone by being removed from the Financial Action Task Force's (FATF's) International Co-operation Review Group's "black list" after passing legislation criminalizing money laundering and the financing of terrorism; and ICITAP facilitated the certification of investigators at the Financial Transaction Reports Analysis Center (PPATK) as Certified Fraud Examiners (CFE)—more than tripling the number of CFEs and increasing their capacity to conduct financial investigations in compliance with international standards and practices.
  - OPDAT RLAs in the **Balkans** helped to draft Foreign Terrorist Fighter laws and provided case-based mentoring to investigators and prosecutors in Albania, Bosnia, Macedonia, and Kosovo leading to significant arrests, prosecutions, and convictions of Foreign Terrorist Fighters in the region. During FY15, with the proliferation of foreign fighters a looming regional threat, ICITAP placed increased focus on regional CT efforts in the Balkans—through targeted training initiatives and an emphasis on facilitating regional cooperation and network building through high-level regional security meetings. These efforts lay the groundwork for significant operational outcomes on the part of our host country partners.
  - The International Institute for Justice and the Rule of Law (IJ) in **Malta** celebrated its first anniversary. Led by the OPDAT RLA to Malta as the IJ's interim Executive Secretary and supported by an international team, the IJ hosted approximately 550 judges, prosecutors, investigators, parliamentarians, and other criminal justice professionals from more than 30 countries.
  - With OPDAT assistance, **Algeria** passed laws criminalizing terrorist financing and issued more stringent banking regulations. As a result of these developments, FATF removed Algeria from the "black list." Also in Algeria, ICITAP partnered with the FBI, DEA, and AFRICOM to provide important training and equipment to the Algerian Gendarmerie and Algerian National Forensics Laboratory. These efforts support DOJ's efforts to bolster Algerian law enforcement capacity to investigate terrorist and transnational crime activities in Algeria and the region.
  - In **Panama**, the OPDAT RLA helped authorities draft a new comprehensive anti-money laundering / combating the financing of terrorism law, create a new regulatory body, and improve money laundering investigations and prosecutions.
  - **Malaysia** marked the first terrorism convictions and sentencings under Malaysia's counterterrorism law that the OPDAT RLA assisted in drafting in 2012. Aside from OPDAT involvement in legislative drafting, the judge and the prosecutor on the case were both recipients of OPDAT counterterrorism training.
  - In the Lake Chad Basin, ICITAP launched a community-oriented and information-led policing program in support of the Global Security Contingency Fund Counter Boko Haram initiative. This interagency program is designed to rapidly increase security forces' capacity in **Nigeria, Niger, Chad, and Cameroon** to effectively secure their borders and defeat Boko Haram.
  - ICITAP is supporting the **Philippines** National Police (PNP) in the conflict-affected areas in the southern Philippines by increasing the investigative and information-gathering capacities





- of operational elements within the PNP to complement agency counter-terrorism tactical units. ICITAP is also training PNP Maritime Group and Philippine Coast Guard personnel in specialized technical maritime policing skills.
- In **Bangladesh**, ICITAP's CVE program supports the development of positive police/community relationships and partnerships through community engagement principles. The program also develops police capacity to counter growing extremist messages, in particular to the country's youth on college campuses, a cross section of the Bangladesh population that is susceptible to extremist recruiting.
  - **Building Institutions to Fight Crime and Corruption.** ICITAP and OPDAT help foreign counterparts develop functioning institutions to improve international cooperation and to promote the integrity and accountability of the criminal justice system. For example,
    - OPDAT helped **Ukraine** draft a package of anti-corruption laws that not only created new corruption prevention and investigative agencies, but also introduced a strong financial disclosure and ethics regime for government officials. OPDAT has since assisted the Government of Ukraine in standing up these new institutions, particularly the new corruption investigative body and its prosecutorial counterpart. Also in Ukraine, in an effort described by DOS Assistant Secretary Brownfield as "the single best example I have seen in 4+ years of DOJ-INL cooperation," ICITAP has supported the Ministry of Interior in recruiting, selecting, and training new nation's first Patrol Police Service. In 2015, ICITAP graduated 3,000+ patrol police officers in the cities of Kyiv, Lviv, and Odessa.
    - In **Albania**, OPDAT RLAs mentored the Albanian Anti-Corruption Unit which arrested two prosecutors and one police officer in cases involving narcotics trafficking and manslaughter. Anti-corruption is critical to Albania's candidacy to the European Union, a major priority of U.S. policy.
    - Since its establishment nearly a decade ago, the ICITAP-developed Police Inspectorate of **Kosovo** (PIK) has built a reputation throughout the region for combatting police corruption. ICITAP continues to assist the PIK in building their management capabilities, and improving their capacity to investigate crime and corruption and to conduct performance or compliance inspections within the Kosovo Police.
    - Prosecutors in **Honduras**, advised and mentored by OPDAT, obtained the conviction of a judge for bribery in a case involving a suspected gang leader whom the police had arrested for illegal weapons possession.
    - Globally, OPDAT delivered a number of complex programs during 2015 on **cybercrime, cyber-security, and intellectual property rights enforcement**. In total, OPDAT organized 17 multinational programs for judges, prosecutors, investigators, legislators, and civil society members from more than 80 countries. These programs have enabled the Department of Justice to improve international cooperation, develop host country institutions and frameworks, and establish a global network to combat the growing threat from cybercrime and intellectual property violations. ICITAP also has a number of cybercrime programs which have seen operational results. In one example, ICITAP-trained and mentored authorities in Macedonia participated in a 20-country FBI-led operation to dismantle the computer hacking forum known as *Darkode*. "This is a milestone in our efforts to shut down criminals' ability to buy, sell, and trade malware, botnets and personally identifiable information used to steal from U.S. citizens and individuals around the world," said the FBI's Deputy Director.





- **Addressing Causes of Crime and Ensuring the Rights of Vulnerable Populations.** ICITAP and OPDAT assist partner nations with combatting transnational crime, upholding the rule of law, and protecting human rights. For example,
  - In **Nepal**, a 7.8 magnitude earthquake in April 2015 killed almost 10,000 people and destroyed 500,000 homes. Two weeks later, a 7.3 aftershock killed hundreds more. Coordinating with the U.S. Embassy, USAID, OPDAT, and ICITAP helped to purchase shelter systems for police, prosecutors, and judges in affected areas so that the Nepalese criminal justice system could continue to function. OPDAT and ICITAP also engaged with Nepali and international entities to address the trafficking in persons (TIP) risks that grew immensely as large numbers of vulnerable, internally displaced persons sheltered in camps, and traditional economic livelihoods such as tourism were disrupted.
  - OPDAT RLAs in **El Salvador** helped police and prosecutors disrupt the illicit activities of transnational criminal organizations and charge leadership elements of the 18<sup>th</sup> Street and MS-13 gangs for multiple offenses, including extortion, murder, and weapons trafficking. In **Honduras**, OPDAT's RLA identified impediments to the investigation of organized crime cases involving trafficking in persons (TIP) and unaccompanied children, and helped create a Task Force to rescue children who had been victims of trafficking. In **Mexico**, OPDAT initiated an Anti-Kidnapping Program and continued to build on its TIP program from 2014 resulting in an increased focus by Mexican authorities on victims' assistance.
  - Using tools and skills learned through ICITAP-facilitated i2 Analysis Notebook training, the **El Salvador** National Police successfully arrested six MS-13 members/collaborators in a transnational extortion scheme. The scheme, which originated in El Salvador, had ties to Houston, TX, where victims and their families were threatened with physical harm and/or death if they didn't pay U.S. currency to the subjects. The officer at the heart of this investigation was an ICITAP-trained officer and a member of the FBI's Transnational Anti-Gang (TAG) initiative.
  - In **Bogotá, Colombia**, ICITAP helped establish, train, and equip the Sexual Assault Unit (GEDES) to bring together prosecutors, investigators, and forensic experts to deal with the high rate of unsolved rape and sexual abuse cases in Bogota. Building on the success of the GEDES model, ICITAP and OPDAT are working with the District Attorney's Office in Bogotá to implement a new homicide response model which will facilitate immediate response to the crime scene and timely evidence collection.
  - In **Bosnia**, ICITAP and OPDAT have partnered to provide joint police-prosecutor Trafficking in Persons training, and OPDAT has continued its gender violence program addressing much of the carryover from the war in the 1990s.
  - In **Kosovo**, OPDAT enhanced its capacity building assistance for more effective prosecutions of complex and serious crimes, including sexual violence and homicides. ICITAP collaborated with the Kosovo Police (KP) to launch the Neighborhood Watch Program for at-risk minority communities in the Municipality of Klina. The ICITAP-designed Neighborhood Watch Program has been provided in three languages (Albanian, English, and Serbian) to the KP and the ICITAP-established Community Safety Coordination Office at the Kosovo Academy for Public Safety (KAPS), ensuring that the program is accessible to all interested communities in Kosovo.
- **Strategy to Combat Transnational Organized Crime.** On July 25, 2011, the White House released the *Strategy to Combat Transnational Organized Crime: Addressing Converging Threats to National Security*. Priority 6 of the Strategy is to promote the development of criminal justice capacities on a worldwide basis, to the point where international law enforcement





capabilities and cooperation among states are self-sustaining. Pursuant to DOJ Strategic Plan Objective 1.1, ICITAP and OPDAT have a central role in the Department's efforts to execute this strategy. As reflected in the examples above, ICITAP and OPDAT assistance to foreign jurisdictions throughout the world helps combat transnational organized crime in furtherance of national security.

Without permanent base funding for ICITAP and OPDAT, the Division will not be able to support ongoing projects if funding streams decline or if the timing of the receipt of new agreements lags. Additionally, the ebb and flow created by the current uneven funding process will continue to create undue inefficiencies and loss of institutional capabilities. Worse, the Department and the Division will play a less active role in international rule of law development and justice sector capacity building programs, which will negatively impact our law enforcement personnel and prosecutors as they pursue criminals in foreign countries and attempt to bring them to justice—whether in the United States or abroad.

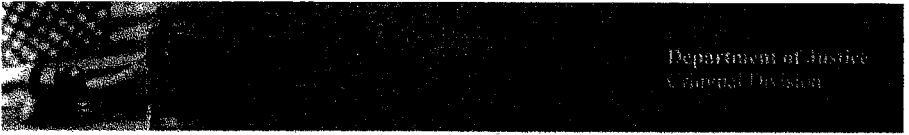
Further, because ICITAP and OPDAT must rely on IAAs to fund a majority of their headquarters' expenses, the lack of a predictable funding source for ICITAP and OPDAT compromises the Division's ability to build and maintain the organizational capacity to support future initiatives, implement law enforcement strategies, and perform essential headquarters functions. Additionally, if this continues, it will leave the State Department with only one option: turn to private contractors who, in many cases, are inexperienced and unfamiliar with U.S. government policy positions and legislative drafting standards, and who are often mistakenly perceived as representing or speaking on behalf of U.S. law enforcement. Among the many serious consequences of this practice is the loss to the Division and the Department of critical opportunities to build the very strategic partnerships between the U.S. and foreign law enforcement that the Department's own current strategic plan highlights as essential to prosecuting transnational crime and terrorism.

### Impact on Performance

The Division's international training and development programs, ICITAP and OPDAT, together provide unique and significant roles and functions that support and advance the Department's 2014-2018 Strategic Plan, specifically:

- **Goal One: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law**
  - 1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats
  - 1.2 Prosecute those involved in terrorist acts
  - 1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors
- **Goal Two: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law**
  - 2.1 Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers
  - 2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to, America's crime victims
  - 2.3 Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of illicit drugs





- 2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime
- 2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices
- *Goal Three: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels*
  - 3.1 Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders through innovative leadership and programs
  - 3.6 Prevent and respond to genocide and mass atrocities and ensure that perpetrators of such crimes are held accountable in the United States, and if appropriate, their home countries

The Division's international training and development programs also support the AG Priority Goals: protecting Americans from national security threats, protecting Americans from violent crime, protecting Americans from healthcare and financial fraud, and protecting the most vulnerable members of society.

The Department of Justice will continue to play an increasing leadership role in the U.S. government's foreign assistance process at all stages. This is consistent with the Attorney General's role and responsibility as the chief law enforcement officer of the federal government and with his responsibilities on national security issues. As highlighted in the DOJ Strategic Plan, the Department is "committed to expanding the scope and depth of international partnerships by enhancing collaboration; helping to establish rule of law through international treaties and training and assistance; and using international working groups to foster communication to enhance investigations, intelligence sharing, and threat awareness." Moreover, as directed by the President in PPD-23, the Department is now a full participant in the planning, assessment, program design, and implementation of interagency security sector assistance. The Criminal Division needs to be ready when called upon to act.

The work of the Criminal Division unquestionably furthers and strengthens the strategic goals of both the Department of Justice and the U.S. government in preventing and combating transnational crime, building strong international partners, and institutionalizing criminal justice sector best practices and rule of law on a global scale. The Department will significantly strengthen its position in USG planning, development, and implementation of international justice sector development if it is able to fully fund its existing institutional capacity for overseas rule of law development: namely, ICITAP's and OPDAT's base budgets. If ICITAP's and OPDAT's headquarters' operations are not funded, the Department will neither be able to enlarge its role nor ensure its current level of involvement in rule of law development missions in the future.





**Funding**  
Dollars in thousands

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services				FY 2017 Request			
Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)	Pos	Atty	FTE	(\$000)
12	6	10	\$2,586	20	9	14	\$4,086	20	9	18	\$4,131	81	17	49	\$9,095

Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
Attorneys (0905)	\$122	8	\$976	\$856	\$0
Management and Program Analysis (0343)	\$101	13	\$1,313	\$1,131	\$0
Legal and Kindred (0900-0999)	\$68	35	\$2,380	\$1,505	\$1,855
Clerical and Office Services (0300-0399)	\$59	5	\$295	\$185	\$0
<b>Total Personnel</b>	N/A	61	\$4,964	\$3,677	\$1,855

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
N/A	0	0	\$0	\$0	\$0
<b>Total Non-Personnel</b>	N/A	N/A	\$0	\$0	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel	Non-Personnel	Total	FY 2018 Net Annualization (change from 2017)	FY 2019 Net Annualization (change from 2018)
Current Services	20	9	18	\$4,131	\$0	\$4,131	\$0	\$0
Increases	61	8	31	\$4,964	\$0	\$4,964	\$3,677	\$1,855
<b>Grand Total</b>	81	17	49	\$9,095	\$0	\$9,095	\$3,677	\$1,855





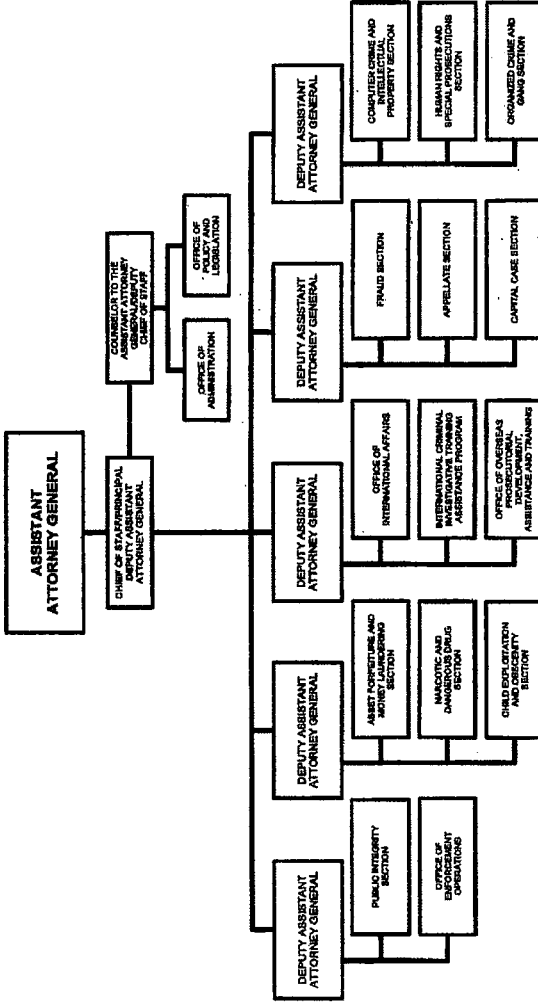
Affected Crosscuts


1. Crimes Against Children
2. Civil Rights
3. Cyber Crime
4. Drugs
5. Economic Fraud
6. Gangs
7. Intellectual Property
8. International Activities
9. National Security
10. Public Corruption
11. Sex Tourism
12. Southwest Border Enforcement
13. Transnational Crime



A: Organizational Chart

CRIMINAL DIVISION



Approved by:   
ERIC N. HOLDER, JR.  
Attorney General

Date: Aug. 28, 2013



B. Summary of Requirements

**Summary of Requirements**

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	<b>750</b>	<b>624</b>	<b>178,042</b>
<b>Total 2015 Enacted</b>	<b>750</b>	<b>624</b>	<b>178,042</b>
<b>2016 Enacted</b>	<b>768</b>	<b>683</b>	<b>181,745</b>
<b>Base Adjustments</b>			
Pay and Benefits	0	9	996
Domestic Rent and Facilities	0	0	1,592
Foreign Expenses	0	0	-621
<b>Total Base Adjustments</b>	<b>0</b>	<b>9</b>	<b>1,967</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>9</b>	<b>1,967</b>
<b>2017 Current Services</b>	<b>768</b>	<b>692</b>	<b>183,712</b>
<b>Program Changes</b>			
Increases:			
Mutual Legal Assistance Treaty (MLAT) Reform	97	49	10,036
International Law Enforcement and Justice Development	61	31	4,964
Subtotal, Increases	158	80	15,000
<b>Total Program Changes</b>	<b>158</b>	<b>80</b>	<b>15,000</b>
<b>2017 Total Request</b>	<b>926</b>	<b>772</b>	<b>198,712</b>
<b>2016 - 2017 Total Change</b>	<b>158</b>	<b>89</b>	<b>16,967</b>

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Enforcing Federal Criminal Laws	750	624	178,042	768	683	181,745	0	9	1,967	768	682	183,712
<b>Total Direct</b>	<b>750</b>	<b>624</b>	<b>178,042</b>	<b>768</b>	<b>683</b>	<b>181,745</b>	<b>0</b>	<b>9</b>	<b>1,967</b>	<b>768</b>	<b>682</b>	<b>183,712</b>
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			<b>178,042</b>			<b>181,745</b>			<b>1,967</b>			<b>183,712</b>
Reimbursable FTE		280			348			23			371	
<b>Total Direct and Reimb. FTE</b>		<b>904</b>			<b>1,031</b>			<b>32</b>			<b>1,063</b>	
Other FTE..												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>904</b>			<b>1,031</b>			<b>32</b>			<b>1,063</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Enforcing Federal Criminal Laws	158	80	15,000	0	0	0	926	772	198,712
<b>Total Direct</b>	<b>158</b>	<b>80</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>926</b>	<b>772</b>	<b>198,712</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>15,000</b>			<b>0</b>			<b>198,712</b>
Reimbursable FTE		0			0			371	
<b>Total Direct and Reimb. FTE</b>		<b>80</b>			<b>0</b>			<b>1,143</b>	
Other FTE									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>80</b>			<b>0</b>			<b>1,143</b>	



**FY 2017 Program Increases/Offsets by Decision Unit**

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Enforcing Federal Criminal Laws			Total Increases				
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE	Amount
Mutual Legal Assistance Treaty (MLAT) Reform		97	54	49	10,036	97	54	49	10,036
International Law Enforcement and Justice Development		61	8	31	4,964	61	8	31	4,964
Total Program Increases		158	62	80	15,000	158	62	80	15,000

Program Offsets	Location of Description by Program Activity	Enforcing Federal Criminal Laws		Total Offsets	
		Direct	Amount	Direct	Amount
No Program Offsets					
Total Program Offsets					



**Resources by Department of Justice Strategic Goal and Objective**  
Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Effects			FY 2017 Total	
	Direct FTE	Reimb Amount	Direct FTE	Direct Reimb Amount	Direct FTE	Direct Reimb Amount	Direct FTE	Reimb Amount	Direct FTE	Direct Reimb Amount	Direct FTE	Direct Reimb Amount	Direct FTE	Direct Reimb Amount	Direct FTE	Request Amount	Direct Amount
<b>Goal 1 Prevent Terrorism and Promote the Nation's Security</b> Consistent with the Rule of Law																	
1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.	53	5,864	66	6,795	65	6,859	65	6,859	0	1,218	0	0	0	0	73	8,087	
1.2 Prosecute those involved in terrorist acts.	20	4,877	18	4,525	18	4,574	18	4,574	0	549	0	0	0	0	21	5,123	
1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors.	68	16,485	76	19,187	82	19,350	82	19,350	0	1,522	0	0	0	0	90	20,872	
<b>Subtotal, Goal 1</b>	<b>142</b>	<b>27,336</b>	<b>160</b>	<b>30,487</b>	<b>165</b>	<b>30,793</b>	<b>165</b>	<b>30,793</b>	<b>0</b>	<b>3,289</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>184</b>	<b>34,082</b>	
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>																	
2.1 Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers.	116	26,163	116	26,036	116	26,219	116	26,219	0	1,567	0	0	0	0	124	27,506	
2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.	65	16,985	63	16,935	63	17,118	63	17,118	0	687	0	0	0	0	67	17,805	
2.3 Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of illicit drugs.	183	31,307	177	30,698	183	31,030	183	31,030	0	3,250	0	0	0	0	199	34,280	
2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime.	352	61,728	397	62,803	418	63,508	418	63,508	0	3,812	0	0	0	0	437	67,320	
2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices.	3	578	3	595	4	601	4	601	0	63	0	0	0	0	4	664	
<b>Subtotal, Goal 2</b>	<b>729</b>	<b>136,762</b>	<b>766</b>	<b>137,067</b>	<b>784</b>	<b>138,276</b>	<b>784</b>	<b>138,276</b>	<b>0</b>	<b>9,399</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>831</b>	<b>147,976</b>	
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>																	
3.1 Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs.	73	7,497	87	7,829	86	7,913	86	7,913	0	2,144	0	0	0	0	99	10,057	
3.6 Prevent and respond to genocide and mass atrocities and ensure that perpetrators of such crimes are held accountable in the United States, and if appropriate, their home countries.	27	6,447	28	6,362	28	6,430	28	6,430	0	168	0	0	0	0	29	6,598	
<b>Subtotal, Goal 3</b>	<b>100</b>	<b>13,944</b>	<b>115</b>	<b>14,191</b>	<b>114</b>	<b>14,343</b>	<b>114</b>	<b>14,343</b>	<b>0</b>	<b>2,312</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>128</b>	<b>16,655</b>	
<b>TOTAL</b>	<b>971</b>	<b>178,042</b>	<b>1,031</b>	<b>181,745</b>	<b>1,063</b>	<b>183,712</b>	<b>1,063</b>	<b>183,712</b>	<b>0</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,143</b>	<b>198,712</b>	



## Justifications for Technical and Base Adjustments

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Pay and Benefits</b>			
1 <u>2017 Pay Raise - 1.6%</u> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested, \$1,393,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$1,087,000 for pay and \$306,000 for benefits.)	0	0	1,393
2 <u>Annualization of 2016 Pay Raise</u> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$415,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$323,700 for pay and \$91,300 for benefits).	0	0	415
3 <u>Changes in Compensable Days</u> The decreased cost for two compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$107,064,000 and applicable benefits \$25,322,000 by 260 compensable days is -\$1,011,000.	0	0	-1,011
4 <u>Employees Compensation Fund</u> The -\$70,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	-70
5 <u>Health Insurance</u> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 2.3 percent. Applied against the 2016 estimate of \$6,366,000, the additional amount required is \$145,000.	0	0	145
6 <u>Position/FTE Adjustment</u> Position/FTE Adjustment	0	9	0
7 <u>Retirement</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$124,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	124
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>9</b>	<b>996</b>



## Justifications for Technical and Base Adjustments

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$1,455 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	1,455
<b>2 Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$56,000 is required to meet these commitments.	0	0	56
<b>3 Utilities - non GSA Facilities</b> Based on current usage, an additional \$81,000, representing a 19% increase in utility costs, is required in FY2017.	0	0	81
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>1,592</b>
<b>Foreign Expenses</b>			
<b>1 Capital Security Cost Sharing</b>	0	0	-621



**Justifications for Technical and Base Adjustments**

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
Per P.L. 108-447 and subsequent acts, "all agencies with personnel overseas subject to chief of mission authority...shall participate and provide funding in advance for their share of costs of providing new, safe, secure U.S. diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined by the Secretary of State." Originally authorized for FY 2000-2004, the program has been extended annually by OMB and Congress and has also been expanded beyond new embassy construction to include maintenance and renovation costs of the new facilities. For the purpose of this program, State's personnel totals for DOJ include current and projected staffing. The estimated cost to the Department, as provided by State, for FY 2017 is \$146,388,966. The Criminal Division currently has 226 positions overseas, and funding of ~\$621,000 is requested for this account.			
<b>Subtotal, Foreign Expenses</b>	<b>0</b>	<b>0</b>	<b>-621</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>9</b>	<b>1,967</b>
<b>ATB Reimbursable FTE Changes</b>			
1 ATB Reimbursable FTE Adjustment ATB Reimbursable FTE Adjustment	0	23	0
<b>Subtotal, ATB Reimbursable FTE Changes</b>	<b>0</b>	<b>23</b>	<b>0</b>



**Crosswalk of 2015 Availability**

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			Reprogramming/Transfers			Carryover		Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount		Direct Pos.	Actual FTE	Amount
Enforcing Federal Criminal Laws	750	624	178,042	64	0	13,434	3,255			814	624	194,731
<b>Total Direct</b>	<b>750</b>	<b>624</b>	<b>178,042</b>	<b>64</b>	<b>0</b>	<b>13,434</b>	<b>3,255</b>	<b>0</b>		<b>814</b>	<b>624</b>	<b>194,731</b>
Balance Rescission			0			0		-1,181				-1,181
Total Direct with Rescission			178,042			13,434	3,255	-1,181				193,550
Reimbursable FTE		280			0						280	
Total Direct and Reimb. FTE		904			0						904	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
<b>Grand Total, FTE</b>		<b>904</b>			<b>0</b>						<b>904</b>	

**Reprogramming/Transfers:** \$13,500,000 transferred from the FEW account to the GLA no-year account for MLAT; \$66,000 was transferred from the GLA no-year account for the JIST program.

**Carryover:** Funds carried over into FY 2015 from GLA's 2014 no-year account.

**Recoveries/Refunds:** Unobligated balance rescission from carryover funding.



## Crosswalk of 2016 Availability

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount			Direct Pos.	Est. FTE	Amount
Enforcing Federal Criminal Laws	768	683	181,745	64	38	0	13,463	0		832	721	195,208
<b>Total Direct</b>	<b>768</b>	<b>683</b>	<b>181,745</b>	<b>64</b>	<b>38</b>	<b>0</b>	<b>13,463</b>	<b>0</b>		<b>832</b>	<b>721</b>	<b>195,208</b>
Balance Rescission			0			0	0	0				0
Total Direct with Rescission			181,745			0	13,463	0				195,208
Reimbursable FTE		348			0							
Total Direct and Reimb. FTE		1,031			38						1,069	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
<b>Grand Total, FTE</b>		<b>1,031</b>			<b>38</b>						<b>1,069</b>	

**Reprogramming/Transfers:** Positions and FTE related to MLAT Transfer.

**Carryover:** Funds carried over into FY 2015 from GLA's 2015 no-year



**Summary of Reimbursable Resources**  
Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
All Other Sources	70	48	41,817	43	39	45,000	39	36	45,000	-4	-3	0
Asset Forfeiture Fund	103	86	52,896	107	92	64,632	107	107	64,632	0	15	0
Department of Health and Human Services	0	0	0	65	64	27,306	65	65	33,900	0	11	6,594
Department of State	184	150	150,955	184	150	100,710	184	148	100,710	0	-2	0
Interagency Crime and Drug Enforcement	13	13	2,002	13	13	2,045	17	15	2,495	4	2	450
<b>Budgetary Resources</b>	<b>370</b>	<b>297</b>	<b>247,670</b>	<b>412</b>	<b>348</b>	<b>239,693</b>	<b>412</b>	<b>371</b>	<b>246,737</b>	<b>0</b>	<b>23</b>	<b>7,044</b>

Obligations by Program Activity	2016 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Enforcing Federal Criminal Laws	370	297	247,670	412	348	239,693	412	371	246,737	0	23	7,044
<b>Budgetary Resources</b>	<b>370</b>	<b>297</b>	<b>247,670</b>	<b>412</b>	<b>348</b>	<b>239,693</b>	<b>412</b>	<b>371</b>	<b>246,737</b>	<b>0</b>	<b>23</b>	<b>7,044</b>

Note: The Reimbursable resources here include Health Care Fraud resources funded through direct collections that are elsewhere shown as direct resources. The Health Care Fraud resources are presented here to indicate that these positions, FTE, and amounts are not funded through DOJ direct appropriations.



I. Detail of Permanent Positions by Category

Detail of Permanent Positions by Category

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.
Miscellaneous Operations (001-099)	1	0	1	0	0	0	0	1	0
Security Specialists (080)	11	0	11	0	0	0	0	11	0
Intelligence Series (132)	1	0	1	0	0	0	0	1	0
Personnel Management (0200-0260)	19	0	19	0	0	0	0	19	0
Clerical and Office Services (0300-0399)	146	78	147	78	0	84	0	231	78
Accounting and Budget (500-599)	10	36	10	36	0	12	0	22	36
Paralegals / Other Law (900-998)	90	25	10	25	0	0	0	10	25
Attorneys (905)	439	225	448	267	0	62	0	510	267
Information & Arts (1000-1099)	1	1	1	1	0	0	0	1	1
Paralegal Specialist (0950)	0	0	84	0	0	0	0	84	0
Business & Industry (1100-1199)	2	1	2	1	0	0	0	2	1
Physical Sciences (1300-1399)	0	1	0	1	0	0	0	0	1
Library (1400-1499)	4	0	4	0	0	0	0	4	0
Equipment/Facilities Services (1600-1699)	2	0	2	0	0	0	0	2	0
Education (1700-1799)	0	1	0	1	0	0	0	0	1
Inspection, Investigation, Enforcement Analyst(1801)	6	0	6	0	0	0	0	6	0
Transportation (2100-2199)	0	1	0	1	0	0	0	0	1
Information Technology Mgmt (2210-2299)	18	1	22	1	0	0	0	22	1
Total	750	370	768	412	0	158	0	926	412
Headquarters Washington D.C.	738	237	754	215	0	154	0	908	215
US Fields	0	0	0	0	0	0	0	0	0
Foreign Field	14	133	14	197	0	4	0	18	197
Total	750	370	768	412	0	158	0	926	412



# Financial Analysis of Program Changes

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Enforcing Federal Criminal Laws					
	Program Increases			Program Decreases		
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-14	62	14,201	0	0	62	14,201
GS-13	13	2,305	0	0	13	2,305
GS-9	76	8,475	0	0	76	8,475
GS-7	7	655	0	0	7	655
<b>Total Positions and Annual Amount</b>	<b>158</b>	<b>25,636</b>	<b>0</b>	<b>0</b>	<b>158</b>	<b>25,636</b>
Lapse (-)	-78	-18,991	0	0	-78	-18,991
11.5 - Other personnel compensation		0		0		0
<b>Total FTEs and Personnel Compensation</b>	<b>80</b>	<b>6,645</b>	<b>0</b>	<b>0</b>	<b>80</b>	<b>6,645</b>
12.1 - Civilian personnel benefits		2,195		0		2,195
21.0 - Travel and transportation of persons		359		0		359
22.0 - Transportation of things		111		0		111
23.2 - Rental payments to others		134		0		134
23.3 - Communications, utilities, and miscellaneous charges		528		0		528
24.0 - Printing and reproduction		8		0		8
25.2 - Other services from non-federal sources		169		0		169
25.3 - Other goods and services from federal sources		1,531		0		1,531
25.6 - Medical care		17		0		17
26.0 - Supplies and materials		119		0		119
31.0 - Equipment		3,184		0		3,184
<b>Total Program Change Requests</b>	<b>80</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>80</b>	<b>15,000</b>



### Summary of Requirements by Object Class

Criminal Division  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act.	Amount	Direct	FTE	Direct	Amount	Direct	Amount
	FTE				FTE		FTE	
11.1 - Full-time permanent	624	72,581	683		772	78,937	89	4,428
11.3 - Other than full-time permanent	0	7,051	0		0	7,600	0	-3,000
11.5 - Other personnel compensation	0	1,445	0		0	1,800	0	-75
Overtime	0	0	0		0	0	0	0
Other Compensation	0	0	0		0	0	0	0
11.8 - Special personal services payments	0	76	0		0	3,500	0	0
<b>Total</b>	<b>624</b>	<b>81,153</b>	<b>683</b>		<b>772</b>	<b>91,837</b>	<b>89</b>	<b>1,354</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		24,015				25,464	0	-116
13.0 - Benefits for former personnel		50				50	0	0
21.0 - Travel and transportation of persons		4,512				5,359	0	-24
22.0 - Transportation of things		729				961	0	111
23.1 - Rental payments to GSA		24,315				27,955	0	1,455
23.2 - Rental payments to others		1,537				2,134	0	134
23.3 - Communications, utilities, and miscellaneous charges		3,579				5,009	0	609
24.0 - Printing and reproduction		106				158	0	8
25.1 - Advisory and assistance services		8,169				8,500	0	0
25.2 - Other services from non-federal sources		18,712				17,169	0	-656
25.3 - Other goods and services from federal sources		8,711				6,896	0	-1,185
25.6 - Medical care		97				117	0	17
25.7 - Operation and maintenance of equipment		248				300	0	0
26.0 - Supplies and materials		817				1,119	0	-749
31.0 - Equipment		2,797				5,684	0	2,546
<b>Total Obligations</b>		<b>179,547</b>				<b>198,712</b>	<b>0</b>	<b>3,504</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-3,255				0	0	13,463
Transfers/Reprogramming		-13,434				0	0	0
Recoveries/Refunds		0				0	0	0
Balance Rescission		1,181				0	0	0
Unobligated End-of-Year, Available		13,463				0	0	0
Unobligated End-of-Year, Expiring		540				0	0	0
<b>Total Direct Requirements</b>		<b>178,042</b>				<b>198,712</b>	<b>0</b>	<b>16,967</b>
Reimbursable FTE	280		348		371		23	0
Full-Time Permanent								

Note: Direct FTE and obligations do not include Health Care Fraud resources.

Exhibit K - Summary of Requirements by Object Class





***U.S. Department of  
Justice***

# **Civil Division**

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**FY 2017 Budget  
and Performance Plans**

**Submitted to the Congress of the United States  
February 2016**



	<b><u>TABLE OF CONTENTS</u></b>	<b><u>Page</u></b>
1.	Overview	1
2.	Summary of Program Changes	5
3.	Appropriations Language and Analysis	6
4.	Program Activity Justification: Legal Representation	11
	a. Program Description: Legal Representation	11
	b. Performance Tables	20
	c. Performance, Resources, and Strategies	24
5.	Program Increases	
	a. Immigration Enforcement	31
	b. Elder Justice Initiate	36
	c. E-Records	39
6.	Exhibits	
	a. Organizational Chart	
	b. Summary of Requirements	
	c. FY 2017 Program Changes by Decision Unit	
	d. Resources by DOJ Strategic Goal/Objective	
	e. Justification for Technical and Base Adjustments	
	f. Crosswalk of 2015 Availability	
	g. Crosswalk of 2016 Availability	
	h. Summary of Reimbursable Resources	
	i. Detail of Permanent Positions by Category	
	j. Financial Analysis of Program Changes	
	k. Summary of Requirements by Object Class	
	l. Status of Congressionally Requested Studies, Reports, and Evaluations (N/A)	



## Overview of the Civil Division

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The Civil Division is the largest litigating component of the U.S. Department of Justice. Each year, the Civil Division represents the United States, its departments and agencies, Members of Congress, Cabinet Officers, and other federal employees in tens of thousands of different matters. Civil safeguards taxpayer dollars, preserves the intent of Congress, ensures the Federal Government speaks with one voice in its view of the law, advances the credibility of the Federal Government before the courts, and protects the health, safety, and economic security of the American people.

The Civil Division's litigation can be categorized as follows:

- Cases involving national policies;
- Cases that are so massive and span so many years that they would overwhelm the resources and infrastructure of any individual field office;
- Cases filed in national or foreign courts;
- Cases crossing multiple jurisdictions; and
- A wide range of individual and class action immigration cases.

Each year, the Civil Division litigates matters on behalf of over 100 federal agencies. This litigation encompasses the array of the Federal Government's legal interests ranging from contract disputes, efforts to combat fraud and the abuse of federal funds, benefits programs, multi-million dollar tort claims, alleged takings of property, intellectual property disputes, defending constitutional and other challenges to Congressional enactments, and defending national security prerogatives and decisions.

In addition to litigation, Civil aids in administering three compensation programs: the Vaccine Injury Compensation Program, the Radiation Exposure Compensation Program, and the September 11th Victim Compensation Program.

The diversity of this subject matter is impressive, as are the actual results of this litigation. In FY 2015, Civil:

- **Secured** over \$4 billion in settlements, judgments, fines, and restitution.
- **Defeated** over \$9 billion in cases that were closed.
- **Defeated** all or nearly all of the opposing party's claims in 86 percent of defensive cases.
- **Defended** cases in which opposing parties sought tens of billions of dollars from the United States.
- **Defeated** thousands of challenges to laws, regulations, policies, and administrative decisions.

### ***Full Program Costs***

This FY 2017 Civil Division Budget Request provides for 1,334 authorized positions, including 960 attorneys, and totals \$309.6 million. It includes program increases for Immigration Enforcement (\$729,000 and 7 positions), Elder Justice (\$558,000 and 2 positions), and E-Records (\$1.6 million) as well as an increase to the appropriated reimbursement for the Vaccine Injury Compensation Program.



### ***Civil Recovers Billions of Dollars for the U.S. Treasury***

Year after year, the Civil Division, working with U.S. Attorneys, collects billions of dollars for the U.S. Treasury. Such revenue-generating cases involve health care fraud, financial fraud, procurement fraud, bankruptcies, civil penalties, and oil spills. Since FY 2009, Civil, working with U.S. Attorneys, has secured over \$35 billion in settlements, judgments, fines, and restitution.

### ***Civil Defeats Billions of Dollars in Unmeritorious Damages***

The overwhelming majority – approximately 87% – of the Civil Division’s workload involves representing the Federal Government in defensive lawsuits. A large number of these cases are monetary claims filed against the Federal Government including contract disputes, patent claims, a variety of accident and liability claims, and constitutional takings claims. The Federal Government’s potential exposure in this caseload is tens of billions of dollars each year. In FY 2015, the Civil Division defeated over \$9 billion in cases that were closed.

### ***Civil Defends the U.S. Government’s Interests***

The Civil Division defends the integrity of federal laws, regulations, policies, and programs. This litigation reflects the diversity of the Federal Government’s activities and involves challenges to statutes passed by Congress, domestic and foreign operations, national security and homeland security policies, and counterterrorism activities.

### ***Civil Protects the Health, Safety, and Welfare of the American People***

The Civil Division’s litigation ends dangerous practices that harm America’s most vulnerable populations. The Elder Justice and Nursing Home Initiative aids senior citizens and their families. Other consumers are protected through prosecutions of mass marketing frauds, such as lottery or psychic scams. Health care fraud litigation deters health care providers from billing federal health care programs for unnecessary, invasive, and useless medical tests that endanger the health and safety of countless patients. Other consumer fraud litigation pursues cases against those who market unsafe or fraudulent products and services, such as tainted dietary supplements or contaminated food.



## Internal and External Challenges

The most significant challenges facing the Civil Division are described below.

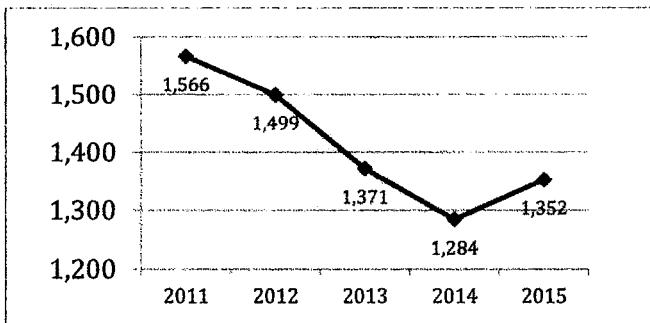
### ***Maintaining Necessary Staffing Levels***

The largest immediate challenge facing the Civil Division is the ability to continue to provide high quality legal representation to client agencies and the American people in a difficult budget environment. In recent years, full adjustments-to-base ("ATBs") for increased personnel costs, rent, and security costs have not been appropriated. At the same time, ATBs for upcoming planned office relocations, which will result in significant long-term cost savings to the Federal Government, have also not been appropriated. More concretely, in the FY 2015 budget, Civil requested \$12.8 million in total ATBs but only received \$5.6 million. In FY 2016, Civil requested \$25.5 million in total ATBs but only received \$760,000.

In FY 2017, Civil is seeking ATBs of \$5.4 million for personnel, rent, and security costs as well as ATBs of \$9.1 million for planned office relocations – totaling \$14.5 million in ATBs. If ATBs are not appropriated, Civil will be forced to absorb these costs in its base budget. Personnel costs are the overwhelming majority of Civil's expenditures. As such, when it must absorb ATBs in its base budget, Civil has no choice but to find savings by cutting personnel. At this time, Civil estimates that it would need to cut its workforce by approximately 85 FTE to absorb \$14.5 million if ATBs are not appropriated in FY 2017.

Civil's most prized asset is its excellent workforce; it is these attorneys and support staff that allow Civil to provide high quality legal representation to client agencies and the American people. Since 2011, Civil's workload has not shrunk in terms of the quantity and complexity of cases. Yet, its workforce is 13% below what it was in 2011. Failing to provide ATBs in FY 2017 risks further personnel cuts.

**Civil's Personnel Levels: 2011 -2015<sup>1</sup>**



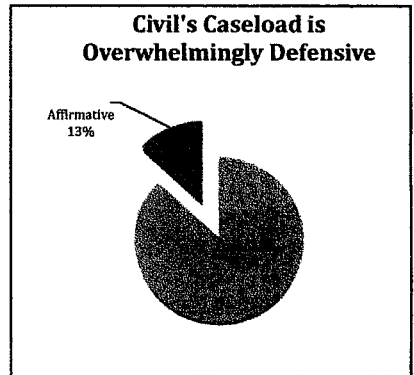
<sup>1</sup> This includes all direct and reimbursable positions. Data is as of Pay Period 2.



## ***Defensive Cases***

Civil's greatest continuing challenge is the fact that 87% of its caseload is defensive. This means that opponents decide the time, nature, and location of a claim. Once a complaint is filed, the Federal Government has no choice but to respond to the suit, lest it face default judgments or sanctions. Regardless of its budget or its ability to absorb additional work, Civil must represent the Federal Government in these matters.

For example, the Vaccine Injury Compensation Program's caseload has exploded in recent years and the current staff level cannot handle the workload. For this reason, Civil is seeking an increase in the reimbursement from the Vaccine Injury Compensation Trust Fund.



Relatedly, the underlying events that give rise to litigation are typically beyond Civil's control, unpredictable, or even unknowable. Disputes over the terms of a contract between an agency and a government contractor, natural disasters such as hurricanes, and catastrophic events such as oil spills, all give rise to litigation. In all such cases, the Civil Division will represent the interests of the United States.

## ***Complex Data in Litigation***

An ongoing challenge, as well as one that is expected to continue indefinitely, is the increasingly complexity of data in investigations and litigation. Civil is defending claims where billions of dollars are sought in damages. Conversely, Civil is aggressively pursuing health care fraud and financial fraud cases that will return billions of dollars to the U.S. Treasury. Both the quantity and quality of the data required in such matters has increased, and Civil's attorneys require more advanced tools. Modern day litigation requires that attorneys use Automated Litigation Support (ALS) services to review and manage this data.

ALS services aid in acquiring, screening, organizing, and analyzing documents or data in preparation for, and during, the judicial process. Civil uses ALS tools and contractors to organize and control document collection and data, respond to requests for documents, develop institutional memory, and provide access to case material at any time, from anywhere. To achieve this, innovative technology is used to scan, index, sort, retrieve, host, and analyze data.

While not all cases require the use of ALS, many cases cannot be properly investigated and litigated without it. Generally, ALS is required for cases that have massive amounts of evidence (paper or electronic), involve complex issues, have tight court-mandated deadlines, risk large dollar amounts, require multiple productions, involve multiple parties and jurisdictions, have a long case duration, involve key precedents, and are high visibility.



## Environmental Accountability

Civil is actively working toward meeting all Administration and Department of Justice guidelines for improving environmental and energy performance. Civil is moving toward full compliance with efforts to achieve reductions in greenhouse gas emissions, acquiring green products and services, and establishing cost-effective waste prevention and recycling programs. Examples of Civil's environmentally sound practices include: significantly increasing teleconferencing capabilities throughout its office space to reduce travel costs, utilizing UNICOR's e-recycling program for excess and obsolete computer equipment, installing motion detector lighting systems, using 25 watt "green" lighting, and significantly reducing the overtime use of heating and air conditioning. For more than five years, Civil has served as a leader within the Department in the area of energy savings achieved through server virtualization technology. Through successful server and desktop virtualization efforts, Civil eliminates nearly 4 million pounds of CO2 each year which is the equivalent of removing over 325 cars from the road or planting nearly 6,000 trees. At the same time, Civil continues to develop plans that will consolidate several buildings and result in the Division occupying 20 percent less office space. Beginning in the spring of 2017, nearly one-third of Civil's employees will be housed in office space that meets LEED Platinum designation and is in close proximity to Metro, VRE, and MARC transit options.

## Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Immigration Enforcement	To provide additional attorneys to handle the increase of national security and labor and employment.	7	4	\$729	31
Elder Justice	To provide additional support for the Elder Justice Initiative successes.	2	1	\$558	36
E-Records	To provide funding to meet government-wide e-record mandates.	0	0	\$1,600	39



## Appropriations Language and Analysis

---

The FY 2017 Budget Request includes a proposed change in the Legal Activities, Salaries and Expenses, General Legal Activities appropriations language, which is explained below. New language is *italicized and underlined*, and language proposed for deletion is bracketed.

### ***Proposed Change***

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed [\$9,358,000] *\$11,970,000*, to be appropriated from the Vaccine Injury Compensation Trust Fund.

### ***Summary***

The Vaccine Injury Compensation Program (“VICP” or the “Program”) caseload has doubled over FY 2009 levels and is projected to continue increasing through FY 2017 and beyond. To manage this drastic increase in case activity, Civil is requesting an increase of \$2.61 million for total program funding of \$11.97 million to fund 12 additional positions and to pay for increased operating costs associated with the burgeoning caseload. If this request is not funded, significant delays in the adjudication process will occur, causing delays in compensation to meritorious petitioners, which will undermine this innovative compensation system that Congress designed.

### ***Analysis***

***Overview of the Program.*** Congress enacted the National Childhood Vaccine Injury Act of 1986 (“the Act”) to avert a crisis affecting the vaccination of children. There were two primary concerns: (1) individuals injured by vaccines faced an inconsistent, expensive, and unpredictable tort system; and (2) the risk of litigation threatened to reduce vaccine manufacturing to a level that could not meet market demands.

The Act established the VICP, a no-fault compensation system for persons suffering injury or death allegedly attributable to certain vaccines or the administration thereof.<sup>2</sup> An individual claiming a vaccine-related injury must file a petition for compensation with the U.S. Court of Federal Claims before pursuing any civil action against a manufacturer or physician.

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<sup>2</sup> The Vaccine Injury Table lists certain injuries that are presumed related to the administration of certain vaccines. Even if an injury is not listed, a petitioner may still try to prove that the vaccine actually caused the injury.



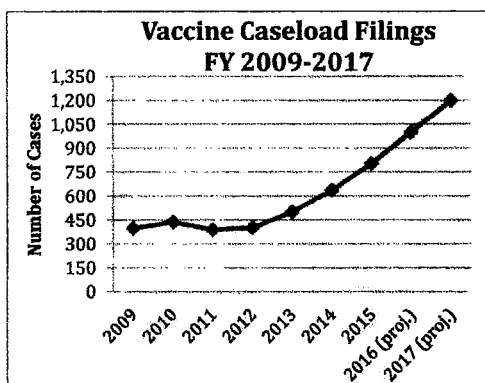
**Civil Division's Role.** Once the case is filed, Civil represents the interests of the U.S. Government. To ensure that compensation is awarded only to those whom Congress intended, cases are closely examined for legal and medical sufficiency. Civil attorneys review the submitted evidence and coordinate with the U.S. Department of Health and Human Services ("HHS") to determine if the petitioner's alleged injuries merit compensation. If so, compensation is awarded either through a court decision or a settlement.

Approximately 80% of compensation awarded is the result of a negotiated settlement. Determination of the appropriate compensation is specifically tailored to each individual petitioner, so the process is often time and resource-intensive and may require a trial to resolve. If the petitioner has insufficient evidence to merit compensation, a Special Master with the Court of Federal Claims will hold a hearing to decide the case, and Civil will present evidence and argue against awarding damages.

**Overview of the Fund.** The Vaccine Injury Compensation Trust Fund is funded by an excise tax imposed on each purchased dose of a covered vaccine. As of January 2016, since the inception of the Program in 1988, more than \$3.2 billion in compensation has been awarded to over 4,400 claimants who would have otherwise stood little chance of recovery in traditional tort litigation. The Trust Fund also pays the administrative costs of Civil's VICP staff, HHS, and the Office of the Special Masters of the Court of Federal Claims through reimbursable authority provided by Congress.

The proposed FY 2017 increased reimbursement would represent just a fraction of the Trust Fund from which it is drawn, which is projected to be over \$3.7 billion by next year. The total requested increase of \$2.61 million for Civil's VICP activities would be about one-tenth of one percent of the Trust Fund balance.

**Caseload Increases.** The Program has experienced a rapid increase in newly filed cases. In fact, the caseload has grown even more than was anticipated a year ago. At this time, in FY 2017, total vaccine filings are expected to be more than 300% the level in FY 2009. In FY 2009, less than 400 cases were filed. Currently, Civil estimates that over 1,000 cases will be filed annually by FY 2016 and approximately 1,200 in FY 2017.



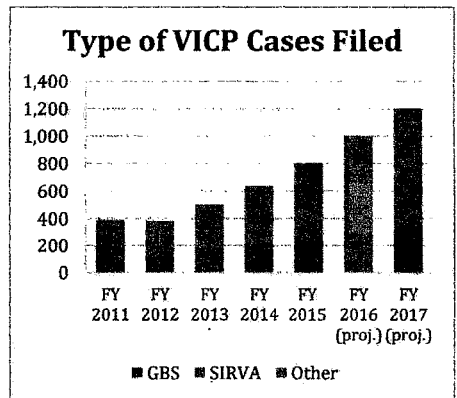


There are several reasons for the recent caseload increase.

- The proposed recognition of an association between vaccination and two injuries (Guillain-Barré syndrome and Shoulder Injury Related to Vaccine Administration) spurs petitions being filed. Further, the rate of filings related to these injuries is expected to jump when the Vaccine Injury Table is amended to include them as presumed vaccine injuries, a change which is expected to become effective in FY 2016.<sup>3</sup>
- Revisions to the Vaccine Injury Table allow claimants to file with an expanded timeline or even re-file a previously dismissed case.
- The growing sophistication of the vaccine injury attorney field is likely a driving force behind the increase in filings. Previously, vaccine injury law firms primarily represented petitioners in relatively small geographical regions. However, with a heavy, nationwide online presence, and the coordinated efforts of a vaccine practitioners' bar association, these firms are reaching far more potential petitioners. Further, the statute's provision for payment of certain attorneys' fees and costs from the Trust Fund also may encourage the filing of cases.

**Data Supporting Caseload Increases.** New injuries proposed by HHS for inclusion in the Vaccine Injury Table have contributed to the increases in caseload.

- **Guillain-Barré syndrome ("GBS"),** an acute paralysis caused by dysfunction in the peripheral nervous system (the nervous system outside the brain and spinal cord).
- **Shoulder Injury Related to Vaccine Administration ("SIRVA"),** an injury which manifests as shoulder pain and limited range of motion occurring after the administration of an injected vaccine.



<sup>3</sup> HHS published the Notice of Proposed Rulemaking, the first step to proposing an amendment to the Table, on July 29, 2015. See <https://www.federalregister.gov/articles/2015/07/29/2015-17503/national-vaccine-injury-compensation-program-revisions-to-the-vaccine-injury-table#h-10>. The public comment period of this notice lasted until January 25, 2016. Therefore, the final rule on the amendments to the Table will likely be in late FY 2016 or early FY 2017.



**Additional Staff and Resources Needed.** This increased reimbursement would fund 12 additional positions (10 attorneys and 2 paralegals) as well as provide \$300,000 in additional automated litigation support services for vaccine injury cases. In FY 2009, the \$7.83 million appropriation to the VICP funded 41 FTE. In FY 2009, these 41 FTE handled 397 new cases. Assuming the full \$11.97 million is provided in FY 2017, Civil will now have 52 FTE handling 1,200 new cases. The cost per petition filed will be far lower in FY 2017 than in FY 2009, while the number of new petitions handled per FTE will be far higher in FY 2017 than in FY 2009. Therefore, in any analysis, Civil's attorneys are far more efficiently adjudicating vaccine injury cases.

**VICP: Cost Per Petition and Petitions Handled Per FTE**

	FY 2009	FY 2017 (proj.)
Petitions Filed	397	1,200
Reimbursement	\$7,833,000	\$11,970,000
Civil FTE	41	52
Cost per petition filed	\$19,730	\$9,975
Number of new petitions handled per FTE	9.7	23.1

**Impact on Performance**

Without additional funding in FY 2017, the Program's ability to keep pace with the growing workload and, ultimately, to award compensation to meritorious petitioners will be impeded.

**Significant Delays in Adjudications.** Without sufficient funding and staffing, cases will see significant delays, leading to a backlog. Delays compromise the logic of the Vaccine Injury Trust Fund, which was established as a way to quickly compensate meritorious victims of vaccine injury.

Delays in settlement will cause a ripple effect, causing petitioners to abandon the settlement process and pursue hearings before Special Masters – a considerably more lengthy and resource-intensive process for the VICP. Alternatively, petitioners could entirely abandon seeking compensation from the Trust Fund and file a lawsuit in court against the manufacturers or administrators of the vaccines. Such a scenario poses even greater potential dangers as the very reason for establishing the VICP was to encourage manufacturers to continue to produce vaccines by removing the risk of unpredictable litigation. If manufacturers are subject to such litigation, they would be dis-incentivized to continue to produce such vaccines.

**Greater Expenditures from the Trust Fund.** Without the proper staffing levels, Civil attorneys will have insufficient time to conduct the necessary analysis and review of the record so as to settle and try cases effectively. Therefore, unmeritorious cases could receive some compensation, and other meritorious cases may be overcompensated. Both



scenarios result in funds unnecessarily being paid from the Trust Fund. Over time, the financial integrity of the Trust Fund could be at stake. Furthermore, such payments will only encourage additional frivolous suits.

The requested increase is modest in comparison to the increase in caseload. In FY 2015, the Vaccine Injury Trust Fund outlaid \$225 million.<sup>4</sup> If, as an example, an additional 5% was paid in unmerited compensation, as a result of fewer Civil attorneys handling the increased caseload, then the Trust Fund would lose an additional \$11.3 million. Such a sum is more than four times the \$2.61 million Civil is seeking as an increased reimbursement.

Inevitably, the time to resolve cases will increase and backlogs will grow, which compromises the Program's ability to meet its Congressional mandate to provide a fair and expeditious means to resolve vaccine injury claims and adversely affects the interests of deserving petitioners. Such petitioners – who are most often sick children or adults with significant physical impairments – will unnecessarily have to wait to receive compensation. Adequate staffing is critical to prevent delays in settlements or adjudications, guarantee the judicious award of compensation to meritorious claims, and ensure that the Trust Fund has sufficient resources to handle future claims.

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<sup>4</sup> See <http://www.hrsa.gov/vaccinecompensation/vicmonthlydecember15.pdf>.



## Program Activity Justification: Legal Representation

### Program Description: Legal Representation

Legal Representation	Direct Pos.	Estimate FTE	Amount (\$ in thousands)
2015 Enacted	1,325	1,168	\$291,454
2016 Enacted	1,325	1,189	\$292,214
Adjustments to Base and Technical Adjustments	0	0	\$14,490
2017 Current Services	1,325	1,189	\$306,704
2017 Program Increases	9	5	\$2,887
2017 Request	1,334	1,194	\$309,591
<b>Total Change 2016-2017</b>	<b>9</b>	<b>5</b>	<b>\$17,377</b>

The Civil Division represents the United States in any civil or criminal matter within its scope of responsibility. Civil is composed of six litigating branches (several of which have multiple sections) as well as an administrative office, the Office of Management Programs. The six litigating branches and their sections are listed below.



#### Appellate Staff



#### Commercial Litigation Branch

- Corporate and Financial Litigation Section
- Office of Foreign Litigation
- Fraud Section
- Intellectual Property Section
- National Courts Section



#### Consumer Protection Branch



#### Federal Programs Branch



#### Office of Immigration Litigation

- Appellate Section
- District Court Section



#### Torts Branch

- Aviation and Admiralty Section
- Constitutional and Specialized Tort Litigation Section
- Environmental Tort Litigation Section
- Federal Tort Claims Act Litigation Section



### **Appellate Staff**

Civil's Appellate Staff represents the interests of the United States in federal circuit courts of appeals and, occasionally, in state appellate courts. Appellate's cases involve complex, sensitive, and novel legal questions that set far-reaching precedents. The Appellate Staff

Appellate's monetary cases involve billions of dollars with outcomes that determine how the law or policy in question will affect millions of Americans.

also defends against constitutional challenges to statutes passed by Congress as well as Executive Branch decisions when these matters are litigated in appellate courts. A notable amount of Appellate's caseload involves representing national security policies in federal appellate courts, such as Guantanamo Bay detainees challenging the lawfulness of their detentions, actions challenging counterterrorism surveillance and investigations, and challenges to terrorist financing and travel.

### **Commercial Litigation Branch**

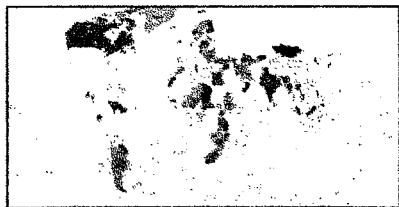
Civil's Commercial Litigation Branch has five sections: (1) Corporate/Financial Litigation, (2) Foreign Litigation, (3) Fraud Section, (4) Intellectual Property, and (5) National Courts.

#### ***Corporate and Financial Litigation Section***

The Corporate and Financial Litigation Section handles unique nation-wide matters involving money and property, and represents the Federal Government's interests in complex Chapter 11 bankruptcies and other contractual and monetary disputes. These cases, which are litigated in courts throughout the country, involve many different industries, including health care providers, communications companies, energy producers and suppliers, and commercial airlines.

#### ***Office of Foreign Litigation***

The Office of Foreign Litigation ensures that U.S. policies, programs, and activities are protected when challenged in foreign courts. In addition, the Office manages litigation in the courts of foreign nations so that people and entities cannot avoid paying money owed to the U.S. Treasury by absconding to a foreign country.



This Office handles all types of cases in courts of foreign countries – whether civil, criminal, affirmative, or defensive. At any given time, the Office handles approximately 1,000 civil and criminal matters in over 100 different countries. While Office attorneys do not practice law in foreign countries, the Office works closely with local attorneys in foreign countries to represent the United States. The office also provides advice and counsel on issues relating to international law both within the Department and to agency partners, including the Department of State.



### ***Fraud Section***

The Fraud Section, working with U.S. Attorneys across the country, recovers billions of dollars annually by investigating and litigating matters involving fraud against the Federal Government. This Section handles fraudulent activity arising from federal health care programs, financial institutions, loan programs, defense and other agency contracting, federal grant programs, customs duties, and oil and gas leases. Much of the Fraud Section's litigation takes place under the False Claims Act.

In FY 2015, the Department secured nearly \$3.5 billion in settlements and judgments from False Claims Act cases. FY 2015 is the fourth year in a row that the Department has exceeded \$3.5 billion in cases under the False Claims Act, and brings total recoveries from January 2009 to the end of the fiscal year to \$26.4 billion.

The False Claims Act whistleblower (or "qui tam") provision allow individuals to file lawsuits alleging false claims on behalf of the government. If the government prevails, the whistleblower may receive up to 30 percent of the recovery. In FY 2015, 638 qui tam suits were filed, and the Department recovered \$2.8 billion in these and earlier filed suits. Whistleblower awards during the same period totaled \$597 million.

### ***Intellectual Property Section***

The Intellectual Property Section represents the United States in all intellectual property matters where a patent, copyright, or trademark is at issue. Many of the cases this Section involves complex technologies, such as pharmaceutical compositions and highly sophisticated electronic devices. To meet the challenges presented by these cases, all attorneys assigned to the Section have a degree in one of the physical sciences or in an engineering field. Many of the Section's attorneys are U.S. Patent and Trademark bar members.

### ***National Courts Section***

The mission of the National Courts Section is to protect taxpayer dollars in lawsuits brought against the Federal Government. It is one of the of the largest and oldest litigating sections in the Department, and handles matters in three federal courts of nation-wide jurisdiction: the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Federal Claims, and the U.S. Court of International Trade. Some of the Section's areas of focus include government contract matters, constitutional and pay claims against the Federal Government, personnel benefits appeals, and international trade cases. National Courts cases often last for several years, if not decades, and involve large sums of money.



### **Consumer Protection Branch**

Civil's Consumer Protection Branch protects the health, safety, and economic security of American consumers through criminal prosecutions and civil enforcement actions under national consumer protection statutes. Its workload involves pharmaceuticals and medical devices, deceptive trade practices and telemarketing fraud, adulterated food and dietary supplements, consumer product safety, odometer fraud, tobacco products, and civil defensive litigation. This particular Branch is unique within Civil because it has both criminal and civil jurisdiction.

The Consumer Protection Branch has seen great success over the past several years. Each fiscal year it recovers hundreds of millions of dollars in criminal fines, forfeitures and disgorgement under the Federal Food, Drug and Cosmetic Act. In addition to recoveries under the Federal Food, Drug and Cosmetic Act, the Consumer Protection Branch handles a significant portion of financial fraud work.

### **Federal Programs Branch**

The Federal Programs Branch defends federal programs, policies, laws, and regulations on behalf of federal agencies, the President, and Cabinet officers, including challenges to the constitutionality of Executive Branch actions as well as statutory law enacted by Congress. Federal Programs is involved in matters representing approximately 100 federal agencies. Many of its cases involve complex questions of constitutional law, including the scope of the powers of Congress, the President, and the federal courts, as well as limitations imposed by the Constitution. The Branch defends against challenges to the lawfulness of key government decisions in suits seeking to overturn important federal policies and programs. In a significant number of matters, Federal Programs defends critical national security policies, decisions, and information.

### **Office of Immigration Litigation**

The Office of Immigration Litigation is organized into two sections – the District Court Section and the Appellate Section. Office of Immigration Litigation attorneys vigorously defend Executive Branch decisions regarding border security and pursue consistent enforcement of the country's immigration laws.

#### ***District Court Section***

The Office of Immigration Litigation's District Court Section is a highly active litigation section. It represents a number of agencies at the trial level in immigration cases arising in the 94 federal district courts nationwide and has primary responsibility for handling appeals arising from immigration-related cases in the district courts. Agencies represented include: the Department of Homeland Security and the Department of Health and Human Services in cases involving a wide range of complex immigration matters; the Department of State in cases involving passports and visas; the Department of Labor in employment-related visas and foreign worker programs; and the Federal Bureau of Investigation on national security matters, including denaturalization and other actions involving individuals with established terrorism ties. The office also provides advice and counsel on issues relating to immigration-related national security and labor matters



within the Department of State and Homeland Security. The District Court Section coordinates litigation strategy on these cases with the various United States Attorneys throughout the United States.

In addition to its defensive litigation responsibilities, the District Court Section also handles affirmative litigation, filing and prosecuting an ever increasing number of denaturalization cases, often with national security implications. The overwhelming majority of the Section's cases are, however, defensive. As the District Court Section must represent the Federal Government in these defensive cases, action can be delayed on affirmative denaturalization cases. The program increase for Immigration Enforcement included in this budget (see page 31) will allow the District Court Section to more expeditiously file denaturalization cases. Also, the Section currently handles approximately 26 class action cases challenging critical policies and programs relating to the Federal Government's interpretation, administration and enforcement of immigration law. Finally, this Section's litigation routinely involves national security cases. The District Court Section defended numerous cases brought by known or suspected terrorists and convicted criminals attempting to acquire immigration benefits, thwart removal, or avoid mandatory detention pending removal, including naturalization claims of members of Hamas, Al-Qaeda, and Al-Shabab.

### ***Appellate Section***

The Office of Immigration Litigation's Appellate Section defends the U.S. in immigration litigation before the federal appellate courts. Appellate attorneys handle removal cases in the Courts of Appeals and support the Office of the Solicitor General's immigration litigation efforts in the U.S. Supreme Court. These cases comprise challenges related to whether an individual is subject to removal from the U.S. or is eligible for some form of benefit, relief, or protection that would allow him or her to remain in the United States.

The caseload is almost entirely defensive and is directly tied to the enforcement efforts of the Department of Homeland Security and the resulting removal adjudications by the Department of Justice's Executive Office for Immigration Review ("EOIR"). As EOIR handles more cases and issues more decisions, the Office of Immigration Litigation's Appellate Section will handle more immigration appeals in federal appeals courts. Given the defensive nature of the Appellate Section's litigation, Civil attorneys must respond to each challenge or risk immigration enforcement actions being negated.

In addition, the Appellate Section also provides advice and counsel to U.S. Attorneys' offices prosecuting criminal immigration issues that overlap with the Office's civil litigation. This Section provides support and counsel to all federal agencies involved in the admission, regulation, and removal of aliens under U.S. immigration and nationality statutes, as well as related areas of border enforcement and national security.



### **Torts Branch**

The Torts Branch is comprised of four litigating sections:

- Aviation and Admiralty Section,
- Constitutional and Specialized Tort Litigation Section,
- Environmental Tort Litigation Section, and
- Federal Tort Claims Act Litigation Section

This Branch also is home to tort reform programs, including the Vaccine Injury Compensation Program and the Radiation Exposure Compensation Act Program. Although the majority of the Torts Branch's workload involves defensive matters in which other parties have sued the Federal Government, the Torts Branch also handled one of the Federal Government's largest affirmative cases – Deepwater Horizon.

#### ***Aviation and Admiralty Section***

The Aviation and Admiralty Litigation Section handles matters surrounding aviation and maritime accidents. The **Aviation** caseload is comprised of litigation related to activities such as air commerce regulation, air traffic control, aviation security, provision of weather services, and aeronautical charting, and the aviation activities of the military services and other federal agencies. When aircraft accidents occur, the Aviation and Admiralty Litigation Section handles litigation involving the Federal Aviation Administration's air traffic control, weather dissemination services, and its certification of airports, aircraft, and air personnel. The **Admiralty** caseload involves the Federal Government's role as ship-owner, regulator, and protector of the nation's waterways. Cases relate to collisions involving government vessels, disputes over navigational markings, and challenges to the boarding of vessels on the high seas during national security activities. Affirmative admiralty actions seek compensation for the loss of government cargo and the costs associated with maritime pollution cleanups.



The Aviation and Admiralty Section has worked in tandem with the Department's Environment and Natural Resources Division and Criminal Division in representing the Federal Government in litigation arising from the explosion on the drilling rig Deepwater Horizon and the resulting oil spill in the Gulf of Mexico in 2010. The Department announced a settlement with BP of more than \$20 billion in October 2015.

#### ***Constitutional and Specialized Tort Litigation Section***

The Constitutional and Specialized Tort Litigation Section consists of three groups: the Constitutional Torts Staff, the Office of Vaccine Litigation, and the Radiation Exposure Compensation Act Program. The Constitutional Torts Staff provides legal representation to federal employees in cases filed against them for actions performed as part of their official duties. The Staff focuses on cases with critical and sensitive Executive Branch functions,

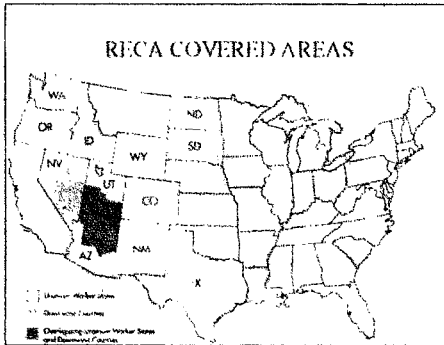


cutting-edge questions of law affecting the federal workforce, and difficult personal liability cases. Many cases encompass national security or law enforcement activity.

**The Office of Vaccine Litigation** was established pursuant to the National Childhood Vaccine Injury Act of 1986, which created a unique mechanism for adjudicating claims of injury resulting from immunizations. The Vaccine Injury Compensation Program is a streamlined system for compensation in rare instances where an injury results from vaccination. The Program's administrative costs are funded out of an annual reimbursement from the Vaccine Injury Compensation Trust Fund and are designed to encourage the manufacture of vaccines by limiting the litigation risk to vaccine manufacturers.

As a "no-fault" system, petitioners need only establish causation and not prove that a vaccine was defective, or that there was any degree of negligence in its administration. As a result of the Vaccine Injury Compensation Program, costly litigation has ceased against drug manufacturers and health care professionals. The Program has awarded more than \$3.2 billion to over 4,400 claimants who would not have received damages in traditional tort litigation. To support the Office of Vaccine Litigation in light of the growth in claims over the past several years, this FY 2017 Budget Request (*see* page 6) includes a proposed change in appropriations language, which would increase the reimbursement from the Vaccine Injury Compensation Trust Fund for the Office's work on vaccine claims.

**The Radiation Exposure Compensation Act Program** administers a compensation



program created by the Radiation Exposure Compensation Act. The Act provides limited financial compensation for individuals who have developed certain serious illnesses after radiation exposure arising from the mining, milling, and transporting of uranium, as well as atmospheric testing of nuclear weapons during the Cold War era. Since its inception, the Act has awarded more than \$2 billion to over 31,000 individuals affected.

### ***Environmental Tort Litigation Section***

The Environmental Tort Litigation Section defends the U.S. in high-stakes and complex environmental tort litigation involving alleged exposure to toxic substances in the environment, the workplace, and government-owned housing. These cases often cover complex scientific and medical issues requiring the presentation of expert testimony. In total, the Environmental Tort Litigation Section has saved the Federal Government billions of dollars.



Past litigation efforts include cases involving hundreds of property damage and personal injury claims allegedly due to contamination from a U.S. Army chemical warfare research facility during World War I, thousands of personal injury and property damage claims allegedly caused by the military exercises occurring over a thirty-year period on the island of Vieques, Puerto Rico, hundreds of property damage claims allegedly caused by the Department of Interior's use of herbicides to prevent wildfires on federal land, thousands of alleged personal injury claims due to contaminated drinking water from Camp Lejeune, and consolidated lawsuits involving nearly 100,000 individual administrative claims seeking well in excess of \$100 billion for alleged personal injuries from exposure to formaldehyde in emergency housing units provided by FEMA in response to Hurricanes Katrina and Rita in 2005.

### ***Federal Tort Claims Act Litigation Section***

The Federal Tort Claims Act ("FTCA") Section litigates complex and controversial cases under the Federal Tort Claims Act, a statute Congress first passed in 1946 to provide damages for certain injuries and property damage federal employees caused. Today, FTCA litigation typically arises from medical care, regulatory activities, law enforcement, and maintenance of federal lands.

The FTCA Section has also defended the United States in suits brought by individuals who were detained on immigration charges following the September 11, 2001 terrorist attacks. In addition, the FTCA Section makes appeal recommendations on all adverse judgments entered in FTCA cases. It also provides comments on FTCA-related congressional legislation that may have an impact on taxpayer liability. Further, the FTCA Section is responsible for the administrative adjustment of tort claims arising out of DOJ activities.

### **Office of Management Programs**

The Office of Management Programs supports Civil's attorneys in all aspects of their work. Whether helping an employee prepare a presentation for trial, maintaining and updating discovery software, selecting a life insurance plan, or developing Civil's annual budget, Management Programs staff of analysts, accountants, and information technology specialists provides the technological, analytical, and litigation tools necessary for Civil's attorneys to compete against the best law firms in the world.



## **September 11th Victim Compensation Fund Program**

**Program Overview.** The September 11th Victim Compensation Fund of 2001 (“VCF”) was reopened by the James Zadroga 9/11 Health and Compensation Act of 2010 (“the Act”), and was reauthorized in 2015. The Act provides compensation to an individual, or a personal representative of a deceased individual, who suffered physical harm as a result of the terrorist-related aircraft crashes of September 11, 2001, or the debris removal that occurred in the immediate aftermath.

The VCF re-opened when the VCF’s Special Master’s final rule took effect on October 3, 2011. Civil Division attorneys review and adjudicate claims, and the Division provides administrative support to the Special Master and her staff. Civil assists with a variety of support services, such as database development and maintenance, claims intake, statistical analysis, and inter-agency coordination. As of the fourth quarter of FY 2015, over 20,622 eligibility forms have been received, 12,150 claims have been approved, and 6,285 compensation decisions have been rendered at a value of over \$1.4 billion.

**Funding.** The VCF is not funded through the Civil Division’s appropriations. Rather, Congress, in the Act, originally appropriated a total of \$2.775 billion for award payments and administrative expenses. Of this \$2.775 billion, \$875 million was to be available in the first five years. The remaining \$1.9 billion was to be available in the sixth year (FY 2017). The recent reauthorization provides the full \$2.775 billion in FY 2016, and, as explained below, provides additional money.

**Reauthorization.** On December 18, 2015, President Obama signed into law a bill reauthorizing the James Zadroga 9/11 Health and Compensation Act of 2010. This reauthorization law provides an additional \$4.6 billion starting in FY 2017. The new law directs the VCF to issue “full compensation” to claimants with Group A Claims, defined as claims for which a loss determination was issued on or before December 17, 2015, “as soon as practicable.” The reauthorization also requires important changes be made to the VCF’s policies and procedures for evaluating Group B claims and computing losses. Group B claims are those claims that are not defined in the legislation as Group A claims. Funding to pay Group B claims will not be available until all Group A claimants “have received the full compensation due” or October 2016, whichever is earlier.

**Additional Information.** Complete program information, messages from the Special Master, important forms and process information, and information about filing a claim go to the VCF website at <http://www.vcf.gov/index.html>.

Regarding the VCF’s handling of claims, the VCF is updating statistics on a quarterly basis. The last update, which was current through September 9, 2015, is available at <http://www.vcf.gov/pdf/VCFProgramStatistics09092015.pdf>.



## Performance Tables

### Performance and Resources

Decision Unit: Civil Division - Legal Representation  
 DOJ Strategic Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.  
 Objective 2.4: Combat corruption, economic crimes, and international organized crime.  
 Objective 2.6: Protect the Federal fisc and defend the interests of the United States.

WORKLOAD/RESOURCES		Target	Actual		Target		Changes		Requested (Total)
		FY 2015	FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Workload	1. Number of cases pending beginning of year	24,461	26,408		23,541		N/A		24,486
	2. Number of cases received during the year	16,008	13,774		16,478		N/A		16,618
	3. Total Workload	40,469	40,182		40,019		N/A		41,104
Total Costs and FTE									
(Reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			FTE	\$0	FTE	\$0	FTE	\$0	FTE
		1,350	201,454 (191,578)	1,310	296,809 (149,436)	1,426	20	17,377 (2,612)	1,446
			FY 2015	FY 2015	FY 2016	FY 2016	Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request	(201,413)
Type	Strategic Objective	Performance							
Output	2.4/2.6	1. Number of cases terminated during the year		16,928		13,981		15,533	
		Civil Division Performance (Excludes VICP and RECA)							
Outcome	2.6	2. Percent of civil cases favorably resolved		80%		93%		80%	
	2.6	3. Percent of defensive cases in which at least 85 percent of the claim is defeated		80%		86%		80%	
	2.4	4. Percent of affirmative cases in which at least 85 percent of the claim is recovered		60%		73%		60%	
	2.6	5. Percent of favorable resolutions in non-monetary trial cases		80%		87%		80%	
	2.6	6. Percent of favorable resolutions in non-monetary appellate cases		85%		91%		85%	



PERFORMANCE						
Type	Strategic Objective	Performance	Target	Actual	Target	Requested (Total)
		<b>Vaccine Injury Compensation Program Performance</b>				
Outcome	2.6	7. Percentage of cases where the deadline for filing the Government's response to Petitioner's complaint (the Rule (4b) report) is met once the case has been deemed complete	86%	95%	86%	N/A
	2.6	8. Percentage of cases in which judgment awarding compensation is rejected and an election to pursue a civil action is filed	0%	0%	0%	N/A
Efficiency	2.6	9. Percentage of cases in which settlements are completed within the court-ordered 15 weeks	92%	100%	92%	N/A
		<b>Radiation Exposure Compensation Program Performance</b>				
Outcome	2.6	10. Reduce average claim processing time to 200 days by FY 2016	200	207	200	N/A
	2.6	11. Percentage of claims paid within six weeks of Program receipt of acceptance form	90%	94%	90%	N/A
	2.6	12. Percentage of claim appeals adjudicated within 90 days of filing administrative appeal	95%	94%	95%	N/A
Efficiency	2.6	13. Percentage of claims adjudicated within 12 months or less	80%	83%	80%	N/A



History of Performance																
Decision Unit: Civil Division - Legal Representation																
Type	Strategic Objective	Performance	FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
			Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target
Workload	2.4/2.6	1. Number of cases pending beginning of year	34,611	34,462	27,750	26,545	24,461	23,764	23,541	24,486						
	2.4/2.6	2. Number of cases received during the year	16,239	17,303	15,566	16,008	14,836	16,478								
	2.4/2.6	3. Total Workload	50,850	51,765	43,316	41,757	40,469	41,104								
Output	2.4/2.6	1. Number of cases terminated during the year	17,618	22,586	16,129	16,941	15,383	15,898								
Civil Division Performance (Excludes VICP and RECA)																
Outcome	2.6	2. Percent of civil cases favorably resolved	96%	96%	98%	97%	80%	80%	93%	80%	80%	80%				
	2.6	3. Percent of defensive cases in which at least 85 percent of the claim is defeated	86%	90%	87%	90%	80%	80%	86%	80%	80%	80%				
	2.4	4. Percent of affirmative cases in which at least 85 percent of the claim is recovered	66%	73%	64%	61%	60%	60%	73%	60%	60%	60%				
	2.6	5. Percent of favorable resolutions in non-monetary trial cases	92%	90%	90%	91%	80%	80%	87%	80%	80%	80%				
	2.6	6. Percent of favorable resolutions in non-monetary appellate cases	92%	94%	94%	93%	85%	85%	91%	85%	85%	85%				
Vaccine Injury Compensation Program Performance																
Outcome	2.6	7. Percentage of cases where the deadline for filing the Government's response to Petitioner's complaint (the Rule (4b) report) is met once the case has been deemed complete	97%	95%	95%	92%	86%	86%	86%	86%	86%	86%				
	2.6	8. Percentage of cases in which judgment awarding compensation is rejected and an election to pursue a civil action is filed	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%				
Efficiency	2.6	9. Percentage of cases in which settlements are completed within the court-ordered 15 weeks	100%	100%	100%	100%	92%	92%	100%	92%	100%	92%				



Performance Report		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target
<b>Radiation Exposure Compensation Program Performance</b>															
Outcome	2.6	10. Reduce average claim processing time to 200 days by FY 2016													
	2.6	11. Percentage of claims paid within six weeks of Program receipt of acceptance form													
	2.6	12. Percentage of claim appeals adjudicated within 90 days of filing administrative appeal													
Efficiency	2.6	13. Percentage of claims adjudicated within 12 months or less													
		100		116		247		272		200		200		200	
		91%		92%		86%		86%		90%		90%		90%	
		100%		100%		96%		97%		95%		97%		97%	
		94%		97%		75%		76%		80%		80%		80%	

#### DATA DEFINITION, VALIDATION, VERIFICATION, AND LIMITATIONS

- **All Workload and Performance Indicators:** The data source for all indicators is CASES, the Civil Division's automated case management system. Quality assurance efforts include regular interviews with attorneys to review data listings; program input screens designed to preclude incorrect data; exception reports listing questionable or inconsistent data; attorney manager review of monthly reports for data completeness and accuracy; and verification of representative data samples by an independent contractor.
- **Limitations:** Incomplete data may cause the system to under-report case terminations and attorney time. These numbers will be updated prior to the end of the fiscal year. Some performance successes can be attributed to litigation where U.S. Attorneys' offices were involved.
- **Performance Indicators 2, 5, and 6:** Favorable resolutions include court judgments in favor of the Government, as well as settlements.
- **All Workload and Performance Indicators:** Workload actuals exclude nearly 500,000 Hurricane Katrina administrative claims and approximately 100,000 FEMA Hurricane Katrina/Rita trailer-related administrative claims. These claims have been removed to avoid skewing the data.



## Performance, Resources, and Strategies

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The Civil Division's work contributes to the Department of Justice's efforts to achieve Strategic Goal 2. Within that goal, Civil's workload is directly tied to two of the Department's Strategic Objectives – 2.4 and 2.6, outlined below. Civil has continued its successful efforts in recent years in affirmative and defensive, monetary and non-monetary litigation because of its highly skilled attorneys who efficiently use technological resources. Their successes, discussed below, are only possible with sufficient funding. In many of these cases, Civil works with colleagues in U.S. Attorney offices.

## Performance Plan and Report for Outcomes

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### **Strategic Objective 2.6 – Protect the Federal Fisc and Defend the Interests of the United States**

A substantial portion of Civil's workload falls within Strategic Objective 2.6; Civil (1) protects the federal fisc and (2) defends the interests of the United States.

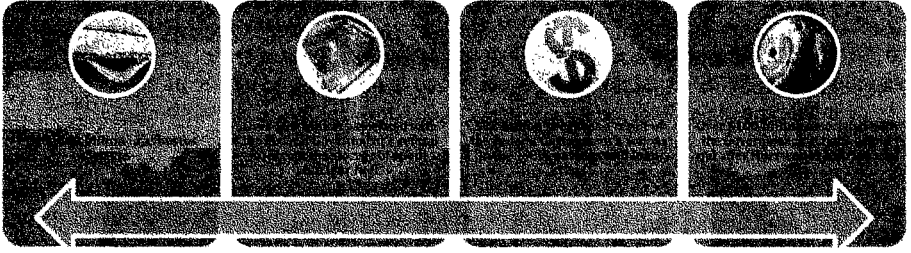
#### ***Civil Protects the Federal Fisc***

The Federal Government engages in countless transactions annually, such as purchasing and leasing goods or services, offering loan guarantees and grants, signing contracts, and issuing payroll. Inevitably, disagreements sometimes arise over the terms of these agreements, and parties will sue the Federal Government. In other situations, the debtor may not be able to pay the full amount of its debt to the Federal Government and will file a bankruptcy case. Likewise, the Federal Government's activities can give rise to numerous allegations of negligence and tort claims. Suits arise from medical care or treatment, regulatory activities, law enforcement, and the maintenance of federal lands. The Civil Division pursues affirmative litigation when a complex Chapter 11 bankruptcy case is filed or the debtor is able, but unwilling, to pay a large debt to the Government. Similarly, the Civil Division defends the Federal Government in these matters and, in so doing, avoids the payment of unwarranted damages. These cases can last for several years or even decades. Just as importantly, one negative precedent will encourage similar future suits and thereby worsen the Federal Government's bottom line.

The events that give rise to these cases – whether regulatory action or natural disasters – are unique and varied. Yet, the results are remarkably similar. Historically, in defensive cases handled by Civil, the U.S. Treasury has paid a very small percentage of the total dollars claimed – often only pennies for each dollar claimed.



### Examples of Civil's Caseload Protecting the Federal Fisc

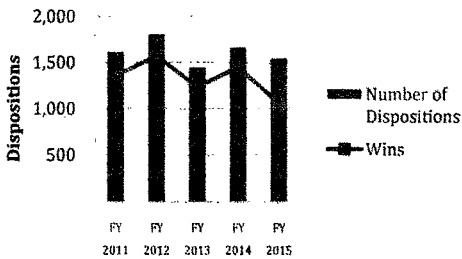


As noted in the graphic above, the amounts sought in these cases are substantial. Civil estimates that in cases resolved in FY 2015, Civil defeated over \$9 billion in amounts sought by opposing parties. In terms of cases handled in FY 2015 by Civil Division attorneys – though not necessarily closed – Civil defended against tens of billions of dollars. Today, some of the largest cases in this area relate to the Federal Government's actions following the 2008 economic crisis. During the 2008 economic crisis, the Federal Government provided assistance worth billions of dollars to several companies so that they would not fail and so America's economy would not decline any further. Shareholders of several of these companies are now suing for billions of dollars.

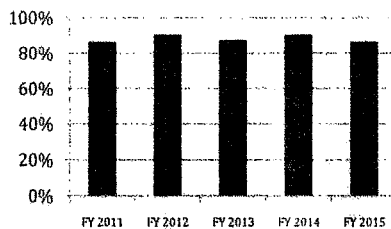
### **Indicators of Civil's Performance in Monetary Defensive Cases**

These cases are illustrative examples of the major monetary, defensive cases in which Civil represents the Federal Government. Civil has consistently met its performance target by consistently defeating the overwhelming majority of amounts sought in claims brought against the Federal Government in these defensive, monetary cases.

#### **Wins in Defensive Monetary Dispositions**



#### **Target Exceeded Each Year** Percent of Defensive Cases in which at Least 85 Percent of the Claim Is Defeated (Target is 80%)





## ***Civil Defends the Interests of the United States***

In addition to monetary cases, Civil defends the integrity of federal laws, regulations, policies, adjudications, and programs. Each year, thousands of lawsuits are filed to block or attempt to challenge the actions of the Federal Government.

### ***Protecting the American People***

Civil represents the Federal Government in challenges to efforts that protect the American people. Civil defends challenges to the Federal Government's border patrol procedures, the use of advanced imaging technology during TSA screening procedures, the No Fly List, and the Terrorist Screening Database. Attorneys in the Civil Division defend the Department of the Treasury's Office of Foreign Assets Control for actions related to economic sanctions issues such as the freezing of assets due to sanctions. In other matters, Civil defends *Bivens* lawsuits brought against law enforcement and other high ranking government officials related to their efforts in protecting national security.

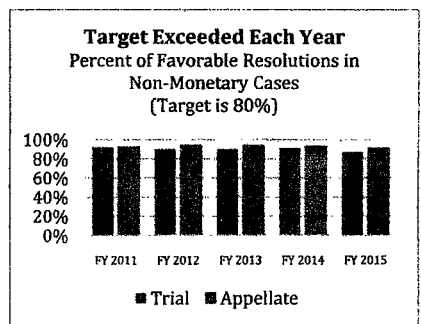
Each year, the Civil Division defends thousands of immigration removal orders, comprised of challenges related to whether an individual is subject to removal from the U.S. or is eligible for some form of benefit, relief, or protection that would allow him or her to remain in the United States. Civil attorneys litigate to remove known or suspected terrorists (as well as other criminals) from the United States.

### ***Defending Statutes, Regulations, Policies, and Decisions***

Beyond these national security and homeland security matters, Civil has led the defense to constitutional challenges to federal laws that impose registration requirements on sex offenders and restrict private gambling on sporting events. In several separate cases, Civil is currently defending the Social Security Administration's and Securities and Exchange Commission's use of Administrative Law Judges in administrative proceedings. Civil attorneys also represent the Federal Government, as the nation's largest employer, in a host of labor and employment cases related to civil rights and discrimination.

### **Indicator of Civil's Performance in Non-Monetary Defensive Cases**

Civil's recent performance for its non-monetary cases is summarized in the chart to the right. As this chart reveals, Civil consistently has met its performance targets in non-monetary cases like the ones described above.





## **Strategic Objective 2.4 – Investigate and Prosecute Corruption, Economic Crimes, and International Organized Crime**

### ***Civil Investigates and Prosecutes Fraudulent Activity***

The Civil Division's litigation involving economic crimes returns billions of dollars to the U.S. Treasury each year. In FY 2015, Civil, working with U.S. Attorneys, secured over \$4 billion in settlements, judgments, fines and restitution. FY 2015 was not an anomaly; year after year Civil routinely returns billions of dollars. Since FY 2009, Civil, working with U.S. Attorneys, secured over \$35 billion in settlements, judgments, fines, and restitution – nearly all of that money was recovered in cases related to fraud and economic crimes such as health care fraud, financial fraud, and mortgage fraud.

There have been many recent successes in this area. In FY 2015, settlements of \$212.5 million with First Tennessee Bank N.A. and \$123.5 million with MetLife Home Loans LLC were reached to resolve allegations related to misconduct in endorsing mortgages for federal insurance by the Federal Housing Administration even though the mortgages failed to meet eligibility requirements. In February 2015, the Department, working with several states, secured a \$1.375 billion settlement agreement with the ratings agency Standard & Poor's Financial Services LLC, along with its parent corporation McGraw Hill Financial Inc., to resolve allegations related to defrauding investors in the lead up to the 2008 financial crisis.

In health care fraud, in October 2014 and June 2015, the Department announced two separate settlements with DaVita Healthcare Partners, Inc., the largest provider of dialysis services in the U.S., for \$350 million and \$450 million, respectively. The October 2014 settlement resolved claims that DaVita violated the False Claims Act by paying kickbacks to induce the referral of patients to its dialysis clinics. The June 2015 settlement resolved claims that DaVita violated the False Claims Act by knowingly creating unnecessary waste in administering two particular drugs to dialysis patients and then billing the Federal Government for such avoidable waste.

Finally, in procurement fraud, in FY 2015, the Department reached a settlement for \$146 million with Supreme Group B.V. and several of its subsidiaries for alleged false claims to the Department of Defense for food, water, fuel, and transportation of cargo for American soldiers in Afghanistan.



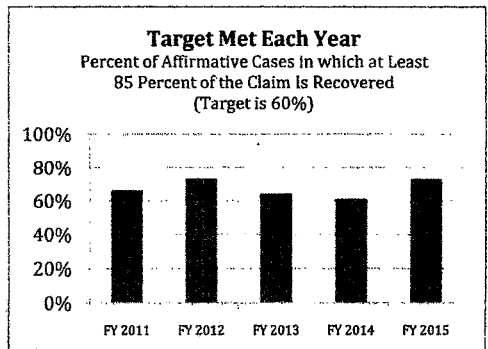
### ***Civil Protects the Health, Safety, and Economic Security of Consumers***

As impressive as these returns to the Treasury are, this litigation also punishes bad actors who seek to harm and defraud individual Americans. Below are cases handled by the Civil Division in FY 2015:

- In September 2015, three former officials associated with Peanut Corporation of America received unprecedented prison terms of 28 years, 20 years, and 5 years (totals 53 years) for their roles in the 2009 distribution of salmonella-tainted peanuts and peanut products. The tainted peanuts resulted in hundreds of reported cases of sickness in 46 states and nine deaths. The sentences are the longest imposed in a case involving foodborne illness.
- In December 2014, Civil helped to secure a 131-count criminal indictment against 14 individuals in connection with the 2012 nationwide fungal meningitis outbreak, caused by contaminated vials of preservative-free methylprednisolone acetate manufactured at a facility in New England. The U.S. Centers for Disease Control and Prevention ("CDC") reported that 751 patients in 20 states were diagnosed with a fungal infection after receiving injections of this chemical. Of those 751 patients, the CDC reported that 64 patients in nine states died.
- In January 2015, a Peruvian man was sentenced to more than 17 years in prison for his operation of a business and call centers in Peru that lied to and threatened Spanish-speaking victims into paying fraudulent settlements for nonexistent debts. The 26 charges against him included conspiracy, mail fraud, wire fraud and attempted extortion.

### **Indicator of Civil's Performance in Monetary Affirmative Cases**

As with other performance measures, Civil consistently has met its performance targets for affirmative, monetary cases over the past several years. The chart to the right illustrates that Civil and its partners recover at least 85% of the amount sought in these affirmative cases.





## Strategies to Accomplish Outcomes

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### **Key Civil Division Strategies:**

**Recover** money lost to fraud, waste, and abuse.

**Protect** the federal fisc from unmeritorious claims.

**Promote** America's national and homeland security interests.

In addition to the strategies continuously employed to uphold its mission, Civil is focused on recruiting dedicated public servants, leveraging advanced technology, and efficiently using resources. These strategies advance the Administration's priorities by Civil utilizing its resources in new and innovative ways. Civil has taken the lead on many initiatives that benefit the entire Department, including the promotion of highly technical litigation support services, employing advancements in information technology to upgrade systems, and providing key leadership in the area of collecting debts owed to the Federal Government.

### ***Civil Supports its Top-Notch Staff***

A key factor in Civil's success in FY 2017 will be its continued ability to hire attorneys and support staff as well as to invest in tools to support them. Civil is able to hire the best and brightest employees with a passion for public service but is not able to return to its personnel level in place before the 2011 hiring freeze. When new staff is hired, they require advanced training programs and professional development resources. Senior attorneys and managers mentor and coach the new staff on the complexity of the Department's caseload to fully prepare them for landmark cases. Civil must develop its staff not just through training and mentoring, but by bringing in the tools and other resources for them to thrive. These tools include the litigation support required to investigate the complex and evolving caseload, as well as information technology tools to support case management.

### ***Civil Leverages Resources to Accomplish Objectives***

Another significant strategy for success in Civil's complex investigations and litigation is the use of state-of-the art technology. One of the most important technological strategies that Civil employs is its exemplary Automated Litigation Support (ALS) program. With this program, Civil can use specialized people and technology to conduct discovery, conduct pre-trial activities, aid attorneys in their motions practices, and assist with trial preparation – *saving time, money, and resources*. Civil has been at the forefront of advanced ALS technologies in the past several years and utilizes various sources of base and reimbursable funding to develop the most efficient funding mix.

Additionally, Civil is requesting a program increase in the FY 2017 budget for a new initiative for e-records storage, which will improve the efficiency and effectiveness of Civil's case and records storage system.



### ***Civil Coordinates with Other Government Actors to Achieve Outcomes***

The Civil Division works closely with partners within the Department of Justice, the Federal Government, and state governments to achieve successful outcomes. On a regular basis, Civil Division attorneys work with U.S. Attorneys across the country. In the fight against health care fraud, Civil Division attorneys and support staff regularly consult the U.S. Department of Health and Human Services' Office of Inspector General and the Centers for Medicare and Medicaid Services. The Civil Division's Assistant Attorney General serves as a co-chair of the Financial Fraud Enforcement's Residential Mortgage-Backed Securities Working Group (along with the Criminal Division's Assistant Attorney General, the U.S. Securities and Exchange Commission Co-Director of Enforcement, the United States Attorney for the District of Colorado, and New York's Attorney General). On a regular basis, Civil Division attorneys and litigation support staff are consulted by client agencies for their expertise. The advice that Civil is able to provide can avoid future litigation or put the U.S. Government in the best possible situation in any future litigation.

## **Priority Goals**

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The Civil Division contributes data to the Department's Priority Goal for FY 2016 – FY 2017, which is by September 30, 2017, the Department of Justice will increase the number of new investigations by 2 percent with emphasis on holding individuals accountable associated with fraud and public corruption, including white collar crime, financial fraud, and health care fraud. Of note, many investigations are time-consuming because attorneys must interview potential witnesses; master complex regulatory or statutory schemes; and analyze technical financial documents, detailed health utilization records, and other complex evidence to determine the likelihood of the Government's success. Civil compiles priority goal data on a quarterly basis and the Department of Justice's Justice Management Division combines Civil's data with data from other components to report progress for the entire Department.

Regarding the FY 2014 – FY 2015 Priority Goal, which was to reduce the number of financial and health care fraud investigations pending longer than two years by three percent over FY 2013 levels, the Civil Division also contributed data to the Department for this goal. The Department did make significant progress in reducing the number of financial and healthcare fraud investigations pending longer than two years during FY 2014 – FY 2015. By the end of FY 2015, the number of pending investigations was 4,801, which is 6.8 percent below FY 2013 when there were 5,152 investigations.



## Program Increase: Immigration Enforcement

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<b>Item Name:</b>	Immigration Enforcement
<b>Strategic Goal:</b>	Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
<b>Strategic Objective:</b>	Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States
<b>Budget Decision Unit(s):</b>	Legal Representation
<b>Program Increase:</b>	Positions <u>7</u> Agt/Atty <u>7</u> FTE <u>4</u> Dollars <u>\$729,000</u>

### ***Description***

The Civil Division's Office of Immigration Litigation – District Court Section ("OIL-DCS") represents the United States in all federal trial and appellate courts in matters involving the Immigration and Nationality Act. This office's caseload has burgeoned in three critical areas: national security cases, labor and employment matters, and class action cases. To adequately handle these three types of cases, OIL-DCS needs additional staff.

### ***Justification***

OIL-DCS currently handles over 1,000 matters, including a little over 400 new matters received in 2015. Its total caseload includes, among other things, matters related to detention, employment-based programmatic challenges, denaturalization, and terrorism-related immigration issues. The number and type of cases, however, does not reflect the fact that these cases are time and resource-heavy. Many cases are complex, high profile, and precedent-setting – all of which mandate that OIL-DCS collaborate closely with client agencies. Moreover, cases may arise in any of the 94 district courts nationwide and require extensive time and travel for discovery, investigations, court appearances, or trial. Many of these cases have a robust motions practice.

Given current staffing levels, OIL-DCS must constantly triage and urgently shift resources around to handle its caseload. The overwhelming majority of cases that OIL-DCS handles are defensive, meaning that another party has filed an action against the Federal Government, and OIL-DCS has no choice but to represent the United States according to a court-ordered schedule. As a result, affirmative denaturalization cases, which may implicate national security matters and which OIL-DCS may bring at its discretion, are often delayed or postponed. Further complicating matters, immigration law is a highly nuanced and specialized area of the law. For some types of cases, Civil may delegate cases to U.S. Attorneys or utilize the legal services of attorneys in other sections to handle spikes in workload. However, given the specialization required, such options are not practical to OIL-DCS, its client agencies, or the U.S. Attorney offices.



## Enhancing National Security

Defending U.S. citizens from both internal and external threats remains the Department of Justice's highest priority. OIL-DCS plays a critical role in protecting American citizens by filing affirmative, civil denaturalization proceedings against individuals that pose a threat to America's security. Once denaturalized, the United States can undertake efforts to remove these dangerous individuals from the United States or prevent them from entering the country. In these denaturalization cases, OIL-DCS works closely with the Department of State, Department of Homeland Security, the Federal Bureau of Investigation, and U.S. Attorneys. Beyond affirmative denaturalization cases, OIL-DCS also handles defensive *mandamus*, *habeas*, and naturalization denial matters.

As most of OIL-DCS's caseload involves defensive matters, affirmative denaturalization cases are most impacted by the current staffing shortage. With additional resources, OIL-DCS will be able to file additional denaturalization cases. While each denaturalization case involves unique facts, OIL-DCS has used or plans to use denaturalization proceedings to strip citizenship from naturalized individuals convicted in American courts or foreign courts of committing acts of terrorism as well as those who have concealed information in their citizenship application about their ties (including providing material support) to terrorist organizations. Beyond known or suspected terrorists, denaturalization has been used to denaturalize other dangerous individuals, including criminals. Funding is a national security priority and a public safety necessity.

OIL-DCS expects that this caseload will increase dramatically. The Department of Homeland Security is finalizing guidance for referral of denaturalization cases to OIL-DCS, which is expected to dramatically increase denaturalization dockets by hundreds of cases. Staffing these expected cases will be impractical at current levels.

Additional funding would allow DCS to specifically recruit attorneys with the experience necessary to handle such cases. Additional staff would allow OIL-DCS to focus on outreach, coordination, and case development with U.S. Attorneys, agency counsel, and the FBI and, therefore, further strengthen the Department's national security stance.

### Protecting America

Denaturalization cases include:

- A naturalized U.S. citizen who plotted to set off a bomb in New York City during Thanksgiving 2012.
- A naturalized U.S. citizen who plotted to assassinate the Saudi Arabian Ambassador.
- A naturalized U.S. citizen who used his charity as an illegal front to funnel over \$3.5 million to a foreign intelligence agency.
- A human rights violator responsible for at least 12 extrajudicial killings during armed conflict between Latin American government forces and leftist guerilla groups.
- Four naturalized U.S. citizens who stole the identities of another Afghan family, at least one of whom was convicted of bribing military officials at Bagram Air Force Base for contracts.
- 29 cases involving subjects that committed atrocities or other human rights violations in the Balkans.
- At least 100 targets who unlawfully procured their naturalization by assuming false identities after receiving final orders of removal, in connection with a multidistrict law enforcement operation to mitigate an identified vulnerability within the naturalization process.
- 27 individuals from a Middle Eastern country who naturalized using false identities, some of whom have attempted to use their assisted known or suspected terrorists immigrate to the United States.



## ***Labor and Employment***

There are numerous provisions in federal immigration law relating to the unique circumstances under which foreign nationals may legally work in the United States. Yet, these provisions are frequently challenged in court. When challenges are successful, entire foreign guest worker immigration programs are shut down. In general, OIL-DCS defends decisions of the United States Citizenship and Immigration Services concerning revocation or denials of non-immigrant and immigrant worker petitions across the spectrum of employment-based visa categories within the Immigration and Nationality Act. Additionally, OIL-DCS routinely defends DHS and DOL rules governing guest worker programs. This team continues to handle an ever-increasing number of nationally-significant challenges to the Federal Government's ability to manage its foreign worker program.

One current example of Civil's work is the *Washington Technology Alliance of Workers v. DHS* litigation. In this matter, a rule permitting students that have studied in certain Science, Technology, Engineering or Math (STEM) fields to obtain visas and work in the United States is being challenged. In general, the contributions of these types of foreign workers have repeatedly been recognized in the payment of tuition to colleges and universities; improving academic discourse on college campuses; and providing skills and knowledge that grow vital parts of the American economy. If this challenge is successful, then this important foreign worker program would be terminated.

## ***Class Actions***

In an immigration class action matter, attorneys purporting to represent a broad class of people will challenge some aspect of America's immigration laws, programs, or regulations. Successful challenges can forever change America's immigration policy. Therefore, immigration class action cases are incredibly complex with significant long-term repercussions. Each class action case requires a team of at least two to three dedicated attorneys to adequately handle the matter. In the past, such cases routinely have lasted over ten years. Some last for more than 20 years.

Recently, an unexpected surge of such class actions has been filed against the Federal Government involving U.S. Immigration and Customs Enforcement detention, U.S. Citizenship and Immigration Services benefits, ongoing removal hearings, and challenges to U.S. Immigration and Customs Enforcement detainees. Several of these challenges related to unaccompanied alien children entering the United States along the Southern border.

## ***Strategic Goals and Performance***

Immigration enforcement is one area where the Civil Division advances the Department of Justice's Strategic Objective 2.6 (to protect the federal fisc and defend the interests of the United States). In its handling of immigration cases, Civil Division defends the interests of the United States. Regarding performance measures, Civil's immigration cases are reflected in two performance measures: (1) the percent of favorable resolutions in non-monetary trial cases, and (2) the percent of favorable resolutions in non-monetary appellate cases.



The requested funds would permit increased staffing in OIL-DCS to ensure an appropriate level of staffing to enable the Civil Division to carry out critical coordinating functions, casework and other responsibilities in support of national security and high priority employment decisions of the United States Citizenship and Immigration Services (USCIS).

This request would allow DCS to achieve its goals, thereby helping the Civil Division reach its performance targets and helping the Department achieve its Strategic Objectives. Historically, Civil has performed well in these two performance measures; in fact, Civil has met these targets every year since FY 2009. To continue this success, DCS will need adequate staff to handle its caseload, and this request ensures that DCS will have the tools that it needs.

#### Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
414	315	410	\$64,941	414	315	410	\$68,700	414	315	410	\$71,241

#### Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Attorneys (0905)	\$104	7	\$729	\$631	\$39
Total Personnel	\$104	7	\$729	\$631	\$39

#### Non-Personnel Increase/Reduction Cost Summary

Non- Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non- Personnel	0	0	\$0	\$0	\$0



**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	414	315	410	\$71,241	\$0	\$71,241	\$0	\$0
Increases	7	7	4	\$729	\$0	\$729	\$631	\$39
Grand Total	421	322	414	\$71,970	\$0	\$71,970	\$631	\$39

**Affected Crosscut**

Information about this Program Increase would be included in the Immigration crosscut.



## Program Increase: Elder Justice Initiative

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<b>Item Name:</b>	Elder Justice Initiative
<b>Strategic Goal:</b>	Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
<b>Strategic Objective:</b>	Strategic Objective 2.4: Combat corruption, economic crimes, and international organized crime
<b>Budget Decision Unit(s):</b>	Legal Representation
<b>Program Increase:</b>	Positions <u>2</u> Agt/Atty <u>0</u> FTE <u>1</u> Dollars <u>\$558,000</u>

### ***Description***

The Civil Division seeks this modest program increase for the Elder Justice and Nursing Home Initiative (the "Initiative") to improve the Department's efforts to combat elder abuse, neglect, and financial exploitation. This requested increase will allow Civil to expand training, continue improvements to an innovative web site, continue critical research, and provide litigation support services in cases alleging nursing homes or other long-term care facilities provide grossly substandard care.

### ***Justification***

The Elder Justice and Nursing Home Initiative is housed in the Commercial Litigation Branch's Fraud Section. The Initiative began in 1998 after the Senate's Special Committee on Aging held a series of hearings exposing deplorable physical conditions and sexual abuse in the nation's nursing homes. Initially, the Initiative included traditional litigation-based efforts, such as fraud cases, bankruptcy filings, drafting legislation, and interagency coordination. However, it became clear that many of the problems afflicting older people in nursing homes were inextricably linked to the problem of elder abuse and neglect. The scope of these issues required the overarching problem of elder abuse and neglect be better addressed.

The scope of elder abuse – including physical, sexual, and psychological abuse, as well as neglect, abandonment, and financial exploitation – affects millions of older Americans each year. Early estimates show that elder care abuse costs billions of dollars each year, a startling statistic considering that just one in 23 cases is reported to authorities. In addition, existing data indicate that one out of every ten people aged 60 and older who lives at home suffers abuse, neglect, or exploitation. Further, about two-thirds of elder abuse victims are women, and African American, Latino, poor, and isolated older adults are disproportionately victimized.

While the Civil Division has achieved a great deal towards protecting this vulnerable population, more resources are needed to continue with these efforts. In recent years, Civil has contributed towards two major events, the June 2015 White House Elder Justice



Forum, and the July 2015 White House Conference on Aging. The Elder Justice Coordinating Council's (ECC) eight recommendations to improve awareness, prevention, intervention, and response to elder abuse, neglect, and exploitation have served as the focus of the Elder Justice Initiative's subsequent efforts. For example, the first recommendation supports the investigation and prosecution of elder abuse cases. The Department of Justice, through the National Institute for the Prevention of Elder Abuse (run by the Office of Violence Against Women) has trained state and local prosecutors in 24 states, with the goal of providing training for the remaining 26 states. At the same time, the Initiative is working with national law enforcement organizations to identify training needs and develop a training plan, as well as develop online resources. Moreover, the Initiative plans to launch 10 regional Elder Justice Task Forces early in 2016. These Task Forces will be multidisciplinary teams comprised of federal, state, and other members of the local law enforcement. The objectives of these Task Forces will be to improve coordination and the ability to intercede more quickly against long term care providers that are providing grossly substandard care to their residents.

Tangible examples of the Initiative's work include the Elder Justice website, which can be found at [www.justice.gov/elderjustice](http://www.justice.gov/elderjustice). The website was launched in 2014 and includes a wide array of materials and information for elder abuse victims and their families, prosecutors, and researchers. The Initiative is currently working on updating and expanding the website and expects to soon launch the next version. In addition to the Elder Justice website, the Initiative worked with two dozen of the nation's leading elder abuse researchers to develop an elder abuse research agenda, supported the development of online elder abuse and financial exploitation training for legal aid attorneys, and provided training to over 170 crime victim specialists at the U. S. Attorney offices regarding elder abuse and financial exploitation.

### ***FY 2017 Plan***

Civil seeks this program increase to allow program expansion to continue. In recent years, Civil has utilized reimbursable funding for the Initiative. But, given uncertainties over continued reimbursable funding and the expanded nature of the Initiative, Civil now wants to dedicate base resources to the Initiative so that its continued operations are not at risk. The funding translates to staff devoted solely to this Initiative, additional training materials, and more investigations. One of the most resource-intensive health care fraud areas involves allegations that skilled nursing facilities violated the False Claims Act by billing Medicare for medically unnecessary rehabilitation therapy services; the requested funding will provide litigation support services for these resource-intensive cases and ultimately result in greater returns to the U.S. Treasury. A 2014 case, where the Initiative played a significant role coordinating the Government's investigation into Extendicare, one of the nation's largest nursing home chains, is a good example. As a result, Extendicare paid the United States \$38 million to resolve allegations that the company billed for medically unnecessary rehabilitation therapy services as well as for grossly substandard nursing care services.



## **Strategic Goals and Performance**

This program increase will enhance Civil's efforts in regards to Strategic Objective 2.4, to combat corruption, economic crimes, and international organized crime. Civil is one of three components responsible for ensuring the DOJ is successful in its efforts to reduce financial and health care fraud, consistent with the DOJ's priority goals. Additionally, Civil's performance in affirmative matters, such as those efforts combating elder fraud and abuse, is captured in the performance measure that determines the percentage of affirmative cases in which at least 85 percent of the claim is recovered. This funding will allow Civil to continue to meet this performance target.

### **Base Funding**

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

### **Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Program Analysts	\$78	2	\$158	\$165	\$9
Total Personnel	\$78	2	\$158	\$165	\$9

### **Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Contractor Support	\$400	1	\$400	\$0	\$0
Total Non-Personnel	\$400	1	\$400	\$0	\$0

### **Total Request for this Item**

	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	\$0	\$0
Increases	2	0	1	\$158	\$400	\$558	\$165	\$9
Grand Total	2	0	1	\$158	\$400	\$558	\$165	\$9

### **Affected Crosscut**

Information about this Program Increase would be included in the Economic Fraud crosscut.



## Program Increase: Funding for E-Records

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<b>Item Name:</b>	<b>Funding for E-Records</b>
Strategic Goal:	Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
Strategic Objective:	Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States
Budget Decision Unit(s):	Legal Representation
Program Increase:	Positions 0 Agt/Atty 0 FTE 0 Dollars <u>\$1,600,000</u>

### **Description**

As part of an ongoing modernization effort, the Civil Division requests \$1.6 million in FY 2017 to transition to electronic record ("e-records") keeping techniques. Ultimately, this transition will ensure that all permanent Civil Division records are stored in an electronic format going forward. There are new government-wide requirements relating to e-records implementation in the next few years; the lack of significant and serious action by government agencies raises concern that information overload could negatively impact the delivery of government services, and to the justice system itself. Congress has already increased funding to the National Archives and Records Administration ("NARA") for this purpose. Just as money has been provided to NARA, the Civil Division needs funding to complete this project.

### **Justification**

The Civil Division strives to be the most modern and efficient workforce possible and to make the most effective use of taxpayer dollars. Efforts to achieve this through better information governance conveys Civil's serious commitment to improve its operations in a world where an estimated 80% of enterprise data is unstructured, 60% of documents are obsolete, 50% of documents are duplicate, and 80% documents are not retrieved by traditional searches.

In recent years, Civil has improved its infrastructure to make the Civil Division, which is the Federal Government's law firm, truly a law firm of the 21<sup>st</sup> century. These steps ensure that Civil Division attorneys provide the best possible representation to the Federal Government, as well as the best possible service to the American people in their vital work defending statutes, protecting national security decisions, and defending against unwarranted monetary claims. Transitioning to e-records is an integral part of this process. In contrast, private sector industry leaders are already applying emerging and improving technologies to manage essential information. However, the Federal Government does not need to take the private sector's cue for this issue. As NARA has noted, "many agencies take their cue on records management responsibilities from the



guidance offered by the Department of Justice (DOJ) as part of litigation requirements, such as litigation holds, discovery, and document production for information requests. DOJ can directly and indirectly support the adoption of automated technologies for records management in Federal agencies”.<sup>5</sup> In this way, a small amount of funding for the Civil Division can have a larger impact in the Federal Government.

Beyond the Civil Division's desire to create a more modern and efficient office, there are government-wide requirements that all agencies transition to e-records by FY 2019. Specifically, on November 28, 2011, President Barack Obama issued a Presidential Memorandum on Managing Government Records, which mandates that agencies develop a more efficient and cost effective 21<sup>st</sup>-century framework for the management of Federal Government records. The subsequent M-12-18 Managing Government Records Directive, issued by the Office of Management and Budget and NARA, states that federal agencies must manage all email records in an electronic format by December 31, 2016, and all permanent records in an electronic format by December 31, 2019. Essentially, the directive requires that, to the fullest extent possible, agencies eliminate paper records and use e-record keeping techniques from December 2019 forward. (This does not mean that agencies must digitize all paper records created prior to December 31, 2019.)

There are many benefits that e-records would provide to the Civil Division, other government entities, and the American taxpayer, to include:

- Improving the speed and ease of access to documentation important to accessing and understanding agency actions and decisions;
- Working towards improving records disclosures to Congress for its oversight responsibilities, and would contribute towards addressing specific Senate concerns about information disclosures (*see* S. Rpt. 114-97 Financial Services and General Government Appropriations Act, 2016);
- Assisting Civil with meeting the unique challenges of digital preservation;
- Assisting executive departments and agencies (referred to collectively as agencies) in minimizing costs and operating more efficiently;
- Supporting a workforce operating in an environment of ever-increasing complexity and accelerated pace of technological change;
- Assisting the Civil Division with meeting the ‘shrink the footprint’ policy;
- Supporting a more mobile workforce;
- Improving capacity to assess the impact of programs, improve business processes, and share knowledge across the government;
- Providing faster and easier access to information to help litigate cases more efficiently, potentially providing cost savings for the American taxpayer; and

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<sup>5</sup> National Archives and Records Administration, Managing Government Records Directive – Automated Electronic Records Management Report/Plan September 19, 2014, at p. 19, *available at* <http://www.archives.gov/records-mgmt/prmd/A31report-9-19-14.pdf>.



- Preserving, accessing, and leveraging institutional knowledge to mitigate the challenges of significant retirements and turnover. GAO Report 14-214 states that 31% of the Federal workforce will be eligible for retirement by 2017.

The Civil Division needs additional funds for this transition. In the past few years, Civil has faced a very lean budget environment. Adjustments-to-base ("ATBs") have not been fully provided in the FY 2015 or FY 2016 appropriation bills. Rather, Civil has been forced to absorb some of the ATBs within existing resources. In FY 2017, Civil simply will not be able to use existing, meager base resources for e-record compliance. The Civil Division believes that Congress supports implementation of the M-12-18 Managing Government Records Directive through funding NARA's \$2.5 million request for additional resources, for this purpose, in the FY 2016 appropriations process.<sup>6</sup> Just as funding has been provided to NARA, Civil needs resources to bring about this change.

**Scope and Plan of the E-Records Transition.** To fully comply with the e-records transition, Civil requires additional resources because the scope of this mandate is exceptionally large. The Civil Division's current automated file tracking system contains records on approximately 2.7 million case file sections under Civil's control. File sections are either official Department of Justice case file jackets or 3 1/2-inch legal-sized accordion file folders. Therefore, each file section can contain from a few pages to hundreds of pages that must be maintained. Although the mandate does not require digitizing these existing hard-copy files, it provides a sense of the scope of this project.

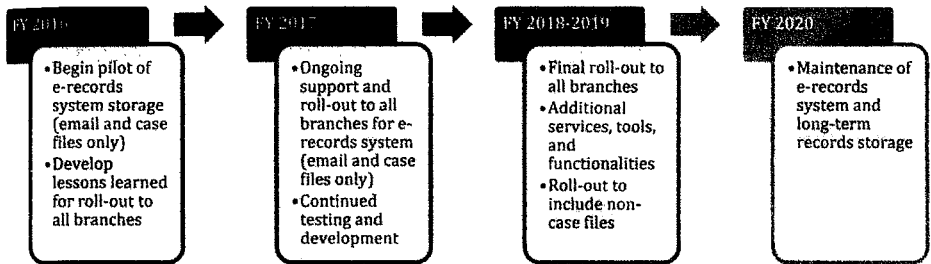
The Civil Division is already taking preliminary steps in meeting the e-records mandate by developing a plan for an initial pilot program in FY 2016. This includes contemplating acquiring the contractor support and subject matter expertise necessary to develop a modern records management system and identify one or two branches for a pilot program.

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<sup>6</sup> NARA's FY 2016 budget included a request for \$372.393 million for its Operating Expenses appropriation. This included a program increase of \$2.5 million and 17 FTE to enhance NARA oversight of government-wide electronic records management activities. "This initiative would provide NARA with the capability to evaluate other Federal agencies' compliance with the Federal Records Act and NARA/OMB Managing Government Records Directive (M-12-18) through direct physical inspections, systems audits of agency recordkeeping systems, and enhanced data collection, analysis, and reporting." National Archives and Records Administration, FY 2016 Congressional Justification (Feb. 2, 2015), at OE 5, available at <http://www.archives.gov/about/plans-reports/performance-budget/2016-performance-budget.pdf>. Congress fully funded the \$372.393 Operating Expenses requested appropriation.



### **Electronic Email Storage and E-Records Roll-out Timeline**



To manage the FY 2016 pilot program and the full Division roll-out, as well as provide expert support to Civil's attorneys and staff, in FY 2017 Civil will need to hire a contractor. In addition, it is imperative that these contractors understand the requirements for a modern records management system. Importantly, hiring a contractor – as opposed to hiring permanent employees – minimizes the long-term costs of this transition. Therefore, this request includes specialized contractor support as well as records management resources.

Additional resources will also be required for technology that will better ensure a smooth transition to e-records, such as auto-categorization, records and document management, media upload/file conversion tools, forensic destruction, scanners that can handle bulk scans at 300-600 dpi, media shredders, and adequate storage to maintain electronic files for up to 60 year retention periods. Going forward, the capability to manage and maintain the system will become an ongoing responsibility for Civil's records staff.

### ***Strategic Goals and Performance***

This program increase will be helpful in all litigation the Civil Division handles. Its positive impact would, therefore, be noted in all performance measures. Furthermore, this program increase would aid Civil's work involving both Strategic Objective 2.4 (Combat corruption, economic crimes, and international organized crime) as well as Strategic Objective 2.6 (Protect the federal fisc and defend the interests of the United States).



**Base Funding**

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)	Pos	agt/atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Personnel	0	0	\$0	\$0	\$0

**Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Contractor Support	\$1,600	1	\$1,600	\$0	\$0
Total Non-Personnel	\$1,600	1	\$1,600	\$0	\$0

**Total Request for this Item**

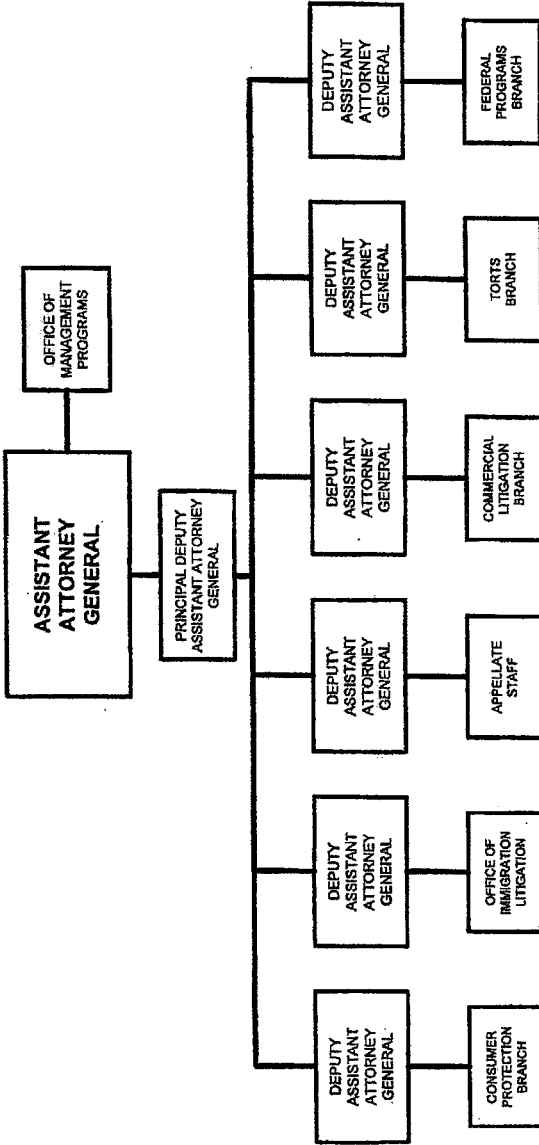
	Pos	Agt/Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	\$0	\$0
Increases	0	0	0	0	\$1,600	\$1,600	\$165	\$9
Grand Total	0	0	0	\$0	\$1,600	\$1,600	\$165	\$9

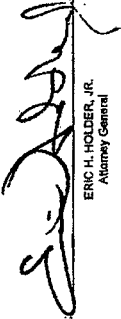
**Affected Crosscuts**

Given that this program increase would impact every single case handled by the Civil Division, there is no clear crosscut where this information would be included.



CIVIL DIVISION



Approved by:   
ERIC H. HOLDER, JR.  
Attorney General

Date: April 3, 2012



B. Summary of Requirements

**Summary of Requirements**  
Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

	2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	1,325	1,168	291,454
2016 Enacted	1,325	1,189	292,214
Base Adjustments			
Pay and Benefits	0	0	1,804
Domestic Rent and Facilities	0	0	12,689
Foreign Expenses	0	0	-3
Total Base Adjustments	0	0	14,490
Total Technical and Base Adjustments	0	0	14,490
2017 Current Services	1,325	1,189	306,704
Program Changes			
Increases:			
Immigration Enforcement	7	4	729
Elder Justice	2	1	558
Funding for E-Records	0	0	1,600
Subtotal, Increases	9	5	2,887
Total Program Changes	9	5	2,887
2017 Total Request	1,334	1,194	309,591
2016 - 2017 Total Change	9	5	17,377

1/ FY 2015 FTE is actual.



B. Summary of Requirements

Summary of Requirements

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2015 Enacted			2016 Enacted			2017 Technical and Base			2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Legal Representation	1,325	1,168	291,454	1,325	1,189	292,214	0	0	14,490	1,325	1,189	306,704
<b>Total Direct</b>	<b>1,325</b>	<b>1,168</b>	<b>291,454</b>	<b>1,325</b>	<b>1,189</b>	<b>292,214</b>	<b>0</b>	<b>0</b>	<b>14,490</b>	<b>1,325</b>	<b>1,189</b>	<b>306,704</b>
Balance Rescission			0						0			0
<b>Total Direct with Rescission</b>												
Reimbursable FTE		142	291,454		237	292,214			14,490		237	306,704
<b>Total Direct and Reimb. FTE</b>		<b>1,310</b>			<b>1,426</b>			<b>0</b>			<b>1,426</b>	
Other FTE:												
LEAP		0			0						0	
Overtime		3			3				0		3	
<b>Grand Total, FTE</b>		<b>1,313</b>			<b>1,429</b>			<b>0</b>			<b>1,429</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Legal Representation	9	5	2,887	0	0	0	1,334	1,194	309,591
<b>Total Direct</b>	<b>9</b>	<b>5</b>	<b>2,887</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,334</b>	<b>1,194</b>	<b>309,591</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>									
Reimbursable FTE		15	2,887		0				309,591
<b>Total Direct and Reimb. FTE</b>		<b>20</b>			<b>0</b>			<b>252</b>	
Other FTE:								<b>1,446</b>	
LEAP		0			0				
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>20</b>			<b>0</b>			<b>1,449</b>	



FY 2017 Program Increases/Offsets by Decision Unit

Civil Division

Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Legal Representation			Total Increases		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty. Est. FTE Amount
Immigration Enforcement	Page 31	7	7	4	729	7	7 4 729
Elder Justice	Page 36	2	0	1	558	2	0 1 558
Funding for E-Records	Page 39	0	0	0	1,600	0	0 0 1,600
Total Program Increases		9	7	5	2,887	9	7 5 2,887
Program Offsets	Location of Description by Program Activity	Legal Representation			Total Offsets		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty. Est. FTE Amount
No Program Offsets							
Total Program Offsets							



Resources by Department of Justice Strategic Goal and Objective

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2016 Enacted		2016 Enacted		2017 Current Services		2017 Increases		2017 Offsets		2017 Total Request	
	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	80	17,846	80	13,373	80	14,865	1	558	0	0	81	15,423
2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime.	1,230	273,608	1,346	278,841	1,346	281,839	19	2,329	0	0	1,365	294,168
2.6 Protect the federal fisc and defend the interests of the United States												
Subtotal, Goal 2	1,310	291,454	1,426	292,214	1,426	306,704	20	2,887	0	0	1,446	309,591
TOTAL	1,310	291,454	1,426	292,214	1,426	306,704	20	2,887	0	0	1,446	309,591



# Justifications for Technical and Base Adjustments

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 2017 Pay Raise This request provides for a proposed 1.6 percent pay raise to effective in January of 2017. The amount requested, \$1,998,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$1,558,000 for pay and \$440,000 for benefits).	0	0	1,998
2 Annualization of 2016 Pay Raise This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$655,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$511,000 for pay and \$144,000 for benefits).	0	0	655
3 Employee Compensation Fund The \$3,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	-3
4 Changes in Compensable Days The cost of two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation and applicable benefits by 262 compensable days. The cost of two less compensable days in FY 2017 is \$1,444,000.	0	0	-1,444
5 Health Insurance Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.9 percent. Applied against the 2016 estimate of \$3,030,000, the additional amount required is \$349,000.	0	0	349
6 Retirement Agency retirement contributions increase as employees under CSRS retire and are replaced by FEERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FEERS at a rate of 0.8 percent per year, for both LEO and Non-LEO based on the past 5 years of DOJ retirement data. The requested increase of \$249,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	249
<b>Subtotal Pay and Benefits</b>	0	0	1,804
<b>Domestic Rent and Facilities</b>			
1 GSA Rent GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$3,476,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs for new space to be occupied.	0	0	3,476
2 Guard Services This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$76,000 is required to meet these commitments.	0	0	76
3 Moves - FY 2017 GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office locations caused by the expiration of leases.	0	0	9,137
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	12,689



Justifications for Technical and Base Adjustments  
Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Foreign Expenses</b>			
1 Overseas Capital Security Cost Sharing (CSCS) Per P.L. 109-447 and subsequent acts, "all agencies with personnel overseas subject to chief of mission authority, shall participate and provide funding in advance for their share of costs of providing new, safe, secure U.S. diplomatic facilities, without offsets, on the basis of the total overseas presence of each agency as determined by the Secretary of State." Originally authorized for FY 2000-2004, the program has been extended annually by OMB and Congress and has also been expanded beyond new embassy construction to include maintenance and renovation costs of the new facilities. For the purpose of this program, State's personnel totals for DOJ include current and projected staffing. The estimated cost to the Department, as provided by State, for FY 2017 is \$146.4 million. The Civil Division currently has 3 positions overseas, and a funding decrease of \$3,000 is requested for this account.	0	0	-3
<b>TOTAL DIRECT TECHNICAL AND BASE ADJUSTMENTS</b>	0	0	14,490



### Crosswalk of 2015 Availability

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2015 Enacted			Reprogramming/Transfers			Carryover		Rescission		Recoveries		2016 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Estim. FTE	Amount	Amount	Amount	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount	Amount
Legal Representation	1,325	1,168	291,454	0	0	-125	10,579		-3,847		314	1,325	1,168	298,375	
Total Direct	1,325	1,168	291,454	0	0	-125	10,579		-3,847		314	1,325	1,168	298,375	
Reimbursable FTE		142			0								142		
Total Direct and Reimb. FTE		1,310			0								1,310		
Other FTE:															
Overline		3			0								3		
Grand Total FTE		1,313			0								1,313		

#### Reprogramming/Transfers

Funds were transferred to the JIST Annual Account for enhanced cyber security IT procurements.

#### Carryover:

Funds were carried over into FY 2015 from GLA's 2014 no-year account.

#### Rescission:

A \$10 million unobligated balance rescission was spread among the GLA components' carryover funding.

#### Recoveries/Refunds

Direct recoveries from GLA's no-year accounts total \$314 thousand.



# Crosswalk of 2016 Availability

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries		2016 Availability		
	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Estim. FTE	Amount	Amount	Pos.	Amount		Direct Pos.	Estim. FTE	Amount
Legal Representation	1,325	1,189	292,214	0	0	0	330	0	1,325	1,189	0	1,325	292,544
Total Direct	1,325	1,189	292,214	0	0	0	330	0	1,325	1,189	0	1,325	292,544
Reimbursable FTE		237			0					237			
Total Direct and Reimb. FTE		1,426			0					1,426			
Other FTE:													
Overtime		3			0							3	
Grand Total, FTE		1,429			0							1,429	

## Carryover:

Funds were carried over into FY 2016 from GLA's 2015 no-year account.



## H. Summary of Reimbursable Resources

## Summary of Reimbursable Resources

Civil Division

Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Bureau of Alcohol, Tobacco, Firearms and Explosives			184			12			12			0
Centers for Medicare & Medicaid Services (CMS)			78			0			0			0
Commodity Futures Trading Commission			684			0			0			0
Consumer Financial Protection Bureau			5,966			0			0			0
Consumer Product Safety Commission			25			15			15			0
Corps of Engineers			0			64			64			0
Department of Education			7,100			7			7			0
Department of Defense			74			0			0			0
Department of Energy			340			0			0			0
Department of Health and Human Services			99			100			100			0
Department of Homeland Security			112			112			112			0
Department of the Interior			8,544			0			0			0
Department of Justice			28			0			0			0
Department of Labor			769			571			571			0
Department of Transportation			153			42			42			0
Department of the Treasury	34	34	7,853			9,358	54	54	11,970	12	12	2,612
Department of the Treasury, Vaccine Injury Compensation			800			1,080			1,080			0
Department of Veterans Affairs			841			306			306			0
District of Columbia Government			3,240			1,000			1,000			0
Federal Bureau of Investigation			30			0			0			0
Federal Communications Commission			400			0			0			0
Federal Housing Finance Agency			0			0			0			0
Federal Reserve Board			250			329			329			0
Food and Drug Administration			30			0			0			0
General Services Administration			56			60			60			0
Health Care Fraud and Abuse Account (Mandatory Funding)			19,428			17,100			17,100			0
Health Care Fraud and Abuse Account (Discretionary Funding)			8,880			33			33			0
Millennium Challenge Corporation			100			500			500			0
National Labor Relations Board			100			100			100			0
Office of Debt Collection			80,131			102,216			102,216			0
Office of Personnel Management			634			500			500			0
US Attorneys			3,175			30			30			0
US Government Printing Office			130			23			23			0
US Postal Service			0			51,945			51,945			0
Unidentified Various Agencies			0			0			0			0
<b>Budgetary Resources</b>	<b>167</b>	<b>142</b>	<b>149,436</b>	<b>240</b>	<b>237</b>	<b>198,801</b>	<b>252</b>	<b>252</b>	<b>201,413</b>	<b>12</b>	<b>15</b>	<b>2,612</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Legal Representation	167	142	149,436	240	237	198,801	252	252	201,413	12	15	2,612
<b>Budgetary Resources</b>	<b>167</b>	<b>142</b>	<b>149,436</b>	<b>240</b>	<b>237</b>	<b>198,801</b>	<b>252</b>	<b>252</b>	<b>201,413</b>	<b>12</b>	<b>15</b>	<b>2,612</b>

Note: The Reimbursable resources here include Health Care Fraud resources funded through direct collections that are elsewhere shown as direct resources. The Health Care Fraud resources are presented here to indicate that these positions, FTE, and amounts are not funded through DOJ direct appropriations.



Detail of Permanent Positions by Category

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	2015 Enacted			2016 Enacted			2017 Request				
	Direct Pos.	Reimb. Pos.		Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.	
Attorneys (905)	953	127		953	190		0	7	960	200	
Paralegal Specialist (0950)	140	16		140	21		0	0	140	23	
Others	232	24		232	29		0	2	234	29	
Total	1,325	167		1,325	240		0	9	1,334	252	
Headquarters Washington D.C.	1,303	167		1,303	240		0	9	1,312	252	
US Fields	21	0		21	0		0	0	21	0	
Foreign Field	1	0		1	0		0	0	1	0	
Total	1,325	167		1,325	240		0	9	1,334	252	



Financial Analysis of Program Changes  
Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Legal Representation				Total Program Changes			
	Program Increases		Program Decreases		Direct Pos.		Amount	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-15	7	904	0	0	7	904	0	0
GS-13	2	186	0	0	2	186	0	0
Total Positions and Annual Amount	9	1,090	0	0	9	1,090	0	0
Lapse (-)	-4	-545	0	0	-4	-545	0	0
11.5 - Other personnel compensation		0		0		0		0
Total FTEs and Personnel Compensation	5	545	0	0	5	545	0	0
12.1 - Civilian personnel benefits		163		0		163		0
21.0 - Travel and transportation of persons		23		0		23		0
22.0 - Transportation of things		3		0		3		0
23.3 - Communications, utilities, and miscellaneous charges		22		0		22		0
24.0 - Printing and reproduction		4		0		4		0
25.2 - Other services from non-federal sources		2,018		0		2,018		0
25.3 - Other goods and services from federal sources		51		0		51		0
26.0 - Supplies and materials		4		0		4		0
31.0 - Equipment		54		0		54		0
Total Program Change Requests	5	2,887	0	0	5	2,887	0	0



# Summary of Requirements by Object Class

Civil Division  
Salaries and Expenses  
(Dollars in Thousands)

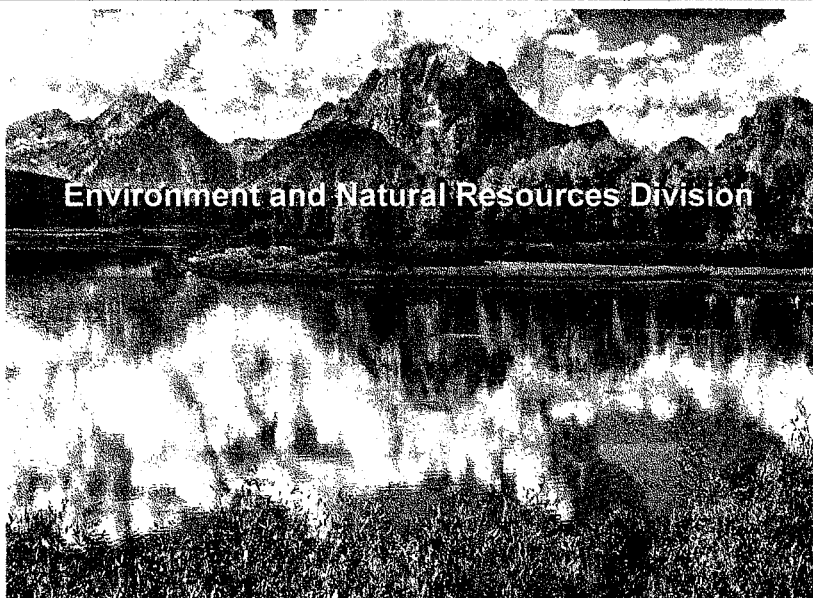
Object Class	2016 Actual			2016 Availability			2017 Request			Increase/Decrease	
	Direct FTE	Amount		Direct FTE	Amount		Direct FTE	Amount		Direct FTE	Amount
11.1 - Full-time permanent	1,045	134,326		1,042	133,668		1,047	135,068		5	1,396
11.3 - Other than full-time permanent	123	13,887		147	16,710		147	16,752		0	42
11.5 - Other personnel compensation	[3]	2,029		[3]	2,201		[3]	2,201		0	0
Overtime	[3]	155		[3]	155		[3]	155		0	0
Other Compensation	0	1,874		0	2,046		0	2,046		0	0
11.8 - Special personal services payments	0	100		0	200		0	200		0	0
<b>Total</b>	<b>1,168</b>	<b>150,322</b>		<b>1,189</b>	<b>152,780</b>		<b>1,194</b>	<b>154,218</b>		<b>5</b>	<b>1,436</b>
<b>Other Object Classes</b>											
12.1 - Civilian personnel benefits		44,376			46,543			47,617		0	1,074
13.0 - Benefits for former personnel		6		6	10			10		0	0
21.0 - Travel and transportation of persons		3,038			3,420			3,443		0	23
22.0 - Transportation of things		758			783			786		0	3
23.1 - Rental payments to GSA		32,400			34,024			37,500		0	3,476
23.2 - Rental payments to others		584			609			609		0	0
23.3 - Communications, utilities, and miscellaneous charges		5,525			4,774			4,796		0	22
24.0 - Printing and reproduction		999			914			918		0	4
25.1 - Advisory and assistance services		1,897			1,500			1,500		0	0
25.2 - Other services from non-federal sources		38,752			34,293			37,645		0	3,352
25.3 - Other goods and services from federal sources		10,922			10,012			10,060		0	48
25.4 - Operation and maintenance of facilities		1,975			1,588			9,137		0	7,548
25.6 - Medical care		129			122			122		0	0
25.7 - Operation and maintenance of equipment		25			44			44		0	0
26.0 - Supplies and materials		918			867			871		0	4
31.0 - Equipment		3,804			261			315		0	54
42.0 - Insurance claims and indemnities		279			0			0		0	0
<b>Total Obligations</b>		<b>236,809</b>			<b>232,544</b>			<b>309,591</b>		<b>0</b>	<b>17,047</b>
Subtract - Unobligated Balance, Start-of-Year		-10,579			-330			0		0	330
Subtract - Transfers/Reprogramming		125			0			0		0	0
Subtract - Recoveries/Refunds		-314			0			0		0	0
Add - Rescission		3,847			0			0		0	0
Add - Unobligated End-of-Year, Available		330			0			0		0	0
Add - Unobligated End-of-Year, Expiring		1,238			0			0		0	0
<b>Total Direct Requirements</b>	<b>0</b>	<b>291,454</b>		<b>0</b>	<b>232,214</b>		<b>0</b>	<b>309,591</b>		<b>0</b>	<b>17,377</b>
<b>Reimbursable FTE</b>	<b>142</b>			<b>237</b>			<b>252</b>			<b>15</b>	<b>0</b>
<b>Full-Time Permanent</b>											

Footnote language: Direct FTE and obligations here do not include Health Care Fraud resources.



**U.S. Department of Justice**

**Environment and Natural Resources Division**



ENRD



ENRD

**FY 2017**

**PERFORMANCE BUDGET  
CONGRESSIONAL SUBMISSION**



## Table of Contents

	Page No.
<b>I. Overview</b>	<b>2</b>
<b>II. Summary of Program Changes</b>	<b>9</b>
<b>III. Appropriations Language and Analysis of Appropriations Language</b>	<b>N/A</b>
<b>IV. Decision Unit Justification</b>	<b>10</b>
A. Environment and Natural Resources Division	
1. Program Description	<b>10</b>
2. Performance Tables	<b>25</b>
3. Performance, Resources, and Strategies	<b>28</b>
<b>V. Program Increases by Item</b>	
A. Improving Environmental Enforcement in Indian Country	<b>36</b>
B. Enhancing the Safety of America's Workforce	<b>40</b>
C. Ensuring the Welfare of Animals in the United States	<b>44</b>
<b>VI. Program Offsets by Item</b>	<b>N/A</b>
<b>VII. Exhibits</b>	
A. Organization Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	

*Cover photo by DOJ/ENRD employee Jeffrey Bank - Oxbow Bend outlook over the Snake River in Grand Teton National Park*

*Photos are from photo galleries maintained by the U.S. Fish and Wildlife Service:*

*<https://www.flickr.com/photos/usfws/albums/galleries>*

*Text boxes are from the Department of Justice and the U.S. Fish and Wildlife Service websites:*

*<http://www.justice.gov/enrd/wildlife-trafficking>; <http://www.fws.gov/international/wildlife-trafficking/>*



## **I. Overview of the Environment and Natural Resources Division**

### **A. Introduction:**

***Environment and Natural Resources Division (ENRD) Mission:*** The Environment and Natural Resources Division is a core litigating component of the U.S. Department of Justice. Founded more than a century ago, it has built a distinguished record of legal excellence. The Division functions as the Nation's environmental and natural resources lawyer, representing virtually every federal agency in the United States, and its territories and possessions, in civil and criminal cases that arise under more than 150 federal statutes. Key client agencies of the Division include the U.S. Environmental Protection Agency (EPA), the U.S. Department of the Interior, the U.S. Army Corps of Engineers, the U.S. Department of Commerce, the U.S. Department of Agriculture, the U.S. Department of Homeland Security, the U.S. Department of Energy and the U.S. Department of Defense, among others. The Division's litigation docket is comprised of nearly 7,000 active cases and matters.

The Division is organized into nine litigating sections (Appellate; Environmental Crimes; Environmental Defense; Environmental Enforcement; Indian Resources; Land Acquisition; Law and Policy; Natural Resources; and Wildlife and Marine Resources), and an Executive Office that provides administrative support. ENRD has a staff of approximately 635, more than 445 of whom are attorneys.

The Division is guided by its core mission and goals, which include:

- Enforcing the nation's bedrock environmental laws that protect air, land, and water for all Americans;
- Vigorously representing the United States in federal trial and appellate courts, including by defending EPA's rulemaking authority and effectively advancing other agencies' missions and priorities;
- Protecting the public fisc and defending the interests of the United States;
- Advancing Environmental Justice through all of the Division's work and promoting and defending Tribal sovereignty, treaty rights, Tribal natural resources, and the environment in Indian country;
- Providing effective stewardship of the nation's public lands, natural resources and animals, including fighting for the survival of the world's most protected and iconic species and marine resources, and working across the government and the globe to end the illegal trade in wildlife.

To accomplish its mission and to achieve its goals in FY 2017, ENRD is requesting a total of \$122,561,000 including 550 positions (379 attorneys), and 533 Full-Time Equivalents (FTE). ENRD also has 115 reimbursable FTE.

All communities deserve clean air, water and land in the places where they live, work, play and learn. The Division strives to ensure that all communities are protected from environmental harms, including those low-income, minority and tribal communities that too frequently live in areas overburdened by pollution. ENRD pursues the goals of Environmental Justice by ensuring



that everyone enjoys the benefit of a fair and even-handed application of the nation's environmental laws, and affected communities have a meaningful opportunity for input in the consideration of appropriate remedies for violations of the law.

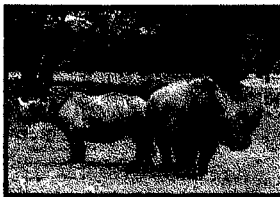
ENRD also litigates to protect the Nation's public lands and resources, ensuring that these lands are protected and the Treasury collects the royalties and payments owed to the United States. The Division also litigates to protect almost 60 million acres of land, and accompanying natural resources, that the United States holds in trust for tribes and their members.

ENRD's work furthers the Department's strategic goals to prevent crime and enforce federal laws, defend the interests of the United States, promote national security, and ensure the fair administration of justice at the federal, state, local, and tribal levels. Most importantly, the Division's efforts result in significant public health and other direct benefits to the American people through the reduction of pollution across the Nation and the protection of important natural resources.

Every day, the Division works with client agencies, U.S. Attorneys' Offices, and state, local and tribal governments, to enforce federal environmental, natural resources, and wildlife laws. It also defends federal agency actions and rules when they are challenged in the courts, working to keep the Nation's air, water and land free of pollution, advancing military preparedness and national security, promoting the nation's energy independence, and supporting other important missions of our agency clients. The Division acquires land for purposes ranging from national parks to national security, protects tribal lands and natural resources, and works to fulfill the United States' trust obligations to Indian tribes and their members.

ENRD performs its work with the constant understanding that our operations are funded by limited taxpayer dollars. Over the past few years, as described below, we have taken deliberate steps to reduce costs and limit resource expenditures. We take our role as responsible custodians of the public fisc very seriously; and we are proud of the short and long-term cost saving measures and efficiencies we have implemented to date.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.



Wildlife trafficking is a serious crime that undermines security across nations and fuels instability. The poaching of protected species and illegal trade in wildlife are pushing iconic species, such as pangolins, rhinos, and tigers, to the brink of extinction, robbing people not only of their natural heritage, but also economic opportunities. White Rhino, Photo by the USFWS



## **B. Issues, Outcomes, and Strategies:**

As the Nation's chief environmental and public lands litigator, ENRD primarily supports the Justice Department's Strategic Goal Two: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

The Division initiates and pursues legal action to enforce federal pollution abatement laws and obtain compliance with environmental protection and conservation statutes. ENRD also represents the United States in all matters concerning protection, use, and development of the nation's natural resources and public lands. The Division defends suits challenging all of the foregoing laws, and fulfills the federal government's responsibility to litigate on behalf of Indian tribes and individual Indians. ENRD's legal efforts protect the federal fisc, reduce harmful discharges into the air, water, and land, enable clean-up of contaminated waste sites, and ensure proper disposal of solid and hazardous waste.

In affirmative litigation, ENRD obtains redress for past violations harming the environment, ensures that violators of criminal statutes are appropriately punished, establishes credible deterrents against future violations of these laws, recoups federal funds spent to abate environmental contamination, and obtains money to restore or replace natural resources damaged by oil spills or the release of other hazardous substances into the environment. ENRD also ensures that the federal government receives appropriate royalties and income from activities on public lands and waters.

By prosecuting environmental criminals, ENRD spurs improvements in industry practice and greater environmental compliance. Additionally, the Division obtains penalties and fines against violators, thereby removing the economic benefits of non-compliance and leveling the playing field so that companies complying with environmental laws do not suffer competitive disadvantages.

In defensive litigation, ENRD represents the United States in challenges to federal environmental and conservation programs and all matters concerning the protection, use, and development of the nation's public lands and natural resources. ENRD faces a growing workload in a wide variety of natural resource areas, including litigation over water quality and watersheds, the management of public lands and natural resources, endangered species and sensitive habitats, and land acquisition and exchanges. The Division is increasingly called upon to defend Department of Defense training and operations necessary for military readiness and national defense.

## **C. Performance Challenges:**

### **External Challenges**

The Division has limited control over the filing of defensive cases, which make up over half of our workload. Court schedules and deadlines drive the pace of work and attorney time devoted to these cases. ENRD's defensive caseload is expected to continue to increase in FY 2016 and FY 2017 as a result of numerous external factors.



- The Division faces a huge influx of litigation under a 19th Century federal statute, commonly known as "R.S. 2477," which "recognized" the "right of way for the construction of highways over public lands, not reserved for public uses." The largest component of this docket is defensive litigation under the Quiet Title Act, 28 U.S.C. § 2409a, in which ENRD defends against claims, mostly by western states and counties, to R.S. 2477 rights-of-way on lands owned by the United States and managed by federal agencies. Since 2011, our R.S. 2477 case load has grown from 12 cases covering 114 roads, to more than 45 cases – most of which are in Utah, but also involve lands in Alaska, California, Idaho, Nevada, New Mexico, North Dakota, and Washington – covering over 12,000 roads. This caseload involves extensive discovery, 'ancient' historical facts, significant motion practice, and *de novo* trials.
- **Flooding Takings Litigation:** The Division is currently defending a large number of suits brought by property owners who contend that actions by the United States have caused flooding of their properties for which they are entitled to just compensation under the Fifth Amendment including a 30,000 member putative class action seeking \$50 billion due to flooding in the aftermath of Hurricane Katrina, and four putative class actions involving thousands of landowners along the Mississippi and Missouri whose properties were flooded in 2011 and seek billions of dollars in compensation. The cases are tremendously complex, requiring extensive use of expert witnesses to determine the cause, extent and damages resulting from such flooding. As a result of recent adverse Supreme Court precedent and changes in climactic conditions, we can anticipate a significant increase in such cases over the next several years.
- The Division currently represents the United States, specifically the Department of Interior and the Department of Treasury, in 21 pending **Tribal Trust** cases in various federal district courts and the United States Court of Federal Claims, in which cases 35 tribes or Indian plaintiffs demand "full and complete" historical trust accountings and damages for financial injury resulting from the government's alleged mismanagement of the plaintiffs' trust funds and non-monetary assets. The plaintiffs' damage claims exceed \$1.5 billion. In FY 2016, the Division faces trial in at least four cases. These cases will require substantial resources in order to conduct or complete extensive fact and expert discovery related to claims for alleged mismanagement of not only numerous tribal trust or individual Indian money accounts but also extensive non-monetary tribal trust resources between 1946 and the present. The damages sought by the plaintiffs in the cases going to trial exceed \$1 billion.
- ENRD supports the defense and security missions of the Department of Defense and the Department of Homeland Security. From defending environmental challenges to critical training programs that ensure military preparedness, to acquiring strategic lands needed to fulfill the government's military and homeland security missions, ENRD makes a unique and important contribution to defense and national security while ensuring compliance with the country's environmental laws. The Division expects its **Military**



**Readiness Docket** – to include litigation to defend training missions and strategic initiatives, expand military infrastructure, and defend chemical weapons demilitarization – to continue into FY 2016 and FY 2017.

- The Division continues to deal with a dramatic expansion of its **Rails-to-Trails litigation**, in which property owners along railroad corridors allege a taking of their property interests in violation of the Fifth Amendment as a result of the operation of the National Trails System Act (“Trails Act”). The courts have held that the Trails Act precludes abandonment of the corridors under state law, and results in the conversion of the railroad line into thousands of miles of recreational trails throughout the United States, which are also “railbanked” for possible future railroad reactivation. The Division presently defends approximately 120 such suits, involving many thousands of properties, with estimated aggregate claims in the hundreds of millions of dollars. These cases present considerable legal challenges, as recent court precedent has been generally unfavorable to the United States. These cases also present considerable resource challenges, since each property conveyance and each property valuation must be individually analyzed. The number of hours the Division devotes to these cases has more than tripled in the past few years and the portion of the Division’s expert witness funds being applied to these cases has increased several-fold. Given the complexity of the cases and the ongoing conversions of railroad corridors into recreational trails, we expect to see a continued increase of this litigation for many years to come.
- The Division also handles several types of litigation over water allocation, including **water rights litigation** on behalf of every federal agency with water-dependent facilities, programs, or land management responsibilities. In the coming year, ENRD anticipates increasing demands on resources from a growing load of water rights cases. As a result of the drought that afflicted most of the western United States, we anticipate increased litigation over scarce water resources. In particular, we expect growth in the litigation of voluminous proceedings known as “general stream adjudications,” in which courts – mostly state courts in the western United States – adjudicate the rights of all the water users in a river basin. The Division’s staff within the Natural Resources Section dedicated to general stream adjudications across the West is generally smaller than the staff employed by each of the western states alone, and these cases – which often involve thousands of parties, tens of thousands of claims and objections, and take decades for discovery, pretrial litigation and trial – already place significant demands on our section resources.



Illegal wildlife trade is estimated to be a multibillion-dollar business involving the unlawful harvest of and trade in live animals and plants or parts and products derived from them. Wildlife is traded as skins, leather goods or souvenirs; as food or traditional medicine; as pets, and in many other forms. Illegal wildlife trade runs the gamut from illegal logging of protected forests to supply the demand for exotic woods, to the illegal fishing of endangered marine life for food, and the poaching of elephants to supply the demand for ivory. Mountain Lion, Photo by the USFWS



The Division is also deeply engaged in a number of continuing and prospective affirmative cases and matters. While the Division's resources are already stretched, ENRD's affirmative enforcement caseload will likely continue to increase in FY 2016 and FY 2017 as a result of numerous external factors.

On January 4, 2016, the Division, on behalf of the Environmental Protection Agency (EPA), filed a civil complaint against **Volkswagen AG, Audi AG, Volkswagen Group of America Inc., Volkswagen Group of America Chattanooga Operations LLC, Porsche AG and Porsche Cars North America Inc. (collectively referred to as Volkswagen)**. The complaint alleges that nearly 600,000 model year 2009-2016 diesel engine vehicles sold in the United States are equipped with illegal "defeat devices" that impair their emission control systems during normal driving conditions and cause emissions to substantially exceed EPA's standards for nitrogen oxide (NOx). The defeat devices consist of software that detects whether the vehicle is operating on the road or undergoing prescribed test procedures, and utilizes the vehicles' emissions controls accordingly. The complaint includes four claims for relief, including that Volkswagen violated the Clean Air Act by selling, introducing into commerce, or importing into the United States motor vehicles that are designed differently from what Volkswagen had stated in applications for certification to EPA and the California Air Resources Board (CARB), and manufacturing, selling, offering to sell or installing the defeat devices. The Clean Air Act requires vehicle manufacturers to certify to EPA that their products will meet applicable federal emission standards to control air pollution. Motor vehicles equipped with illegal defeat devices cannot be certified.

NOx pollution contributes to harmful ground-level ozone and fine particulate matter. These pollutants are linked with asthma and other serious respiratory illnesses. Exposure to ozone and particulate matter is also associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly and people with pre-existing respiratory disease are particularly at risk of health effects from exposure to these pollutants. Recent studies indicate that the direct health effects of NOx are worse than previously understood, including respiratory problems, damage to lung tissue and premature death.

The complaint seeks injunctive relief and the assessment of civil penalties. The United States expects the case to be transferred to the related multi-district litigation in the Northern District of California for coordinated pretrial proceedings. The United States' investigation is ongoing, in close coordination with the California Air Resources Board (CARB.) EPA and CARB have been in active discussion with Volkswagen about potential remedies and recalls to address the noncompliance, and those discussions are ongoing.

ENRD also expects to continue to receive complex **civil and criminal environmental enforcement referrals from EPA** under the Clean Water Act and Clean Air Act in FY 2016 and FY 2017.

### **Internal Challenges**

With the introduction of new technologies and new requirements in the legal industry – such as e-filing, on-line document repositories, electronic trials, extranet docketing systems, and electronic discovery – we are in constant need of ensuring our workforce has the expertise and



access to software, hardware and systems to keep pace. ENRD continues to refresh aging hardware, develop and implement required tracking systems, and comply with Department security mandates. One initiative that will pose particular IT challenges for ENRD is the Data Center Transformation Initiative (DCTI). This consolidation effort will impact every aspect of ENRD's IT operations including budget, design, staffing, maintenance and operations.

#### **D. Environmental Accountability**

The Division maintains a "Greening the Government" initiative in response to Executive Order 13423 (January 24, 2007), which requires all federal agencies to meet benchmarks for reductions in energy usage, water consumption, paper usage, solid waste generation, and other areas. Among other things, through the Executive Order, government agencies were directed to reduce energy consumption by 30 percent by 2015.

ENRD continues to lead the Department in green building initiatives. The Division works hard to keep energy usage low. PHB, where ENRD is the primary tenant, received an Energy Star certification in 2014 and strives to continue to meet the environmental standards necessary to continue the LEED certification received in 2012.

The Environment Division's Information Technology (IT) staff is keenly aware of its environmental responsibilities, buying energy efficient hardware before Energy Star became a Federal government mandate. To maximize energy efficiency, our virtual server infrastructure was recently expanded to our COOP site and field offices (reducing the count of physical servers by 40 percent). In addition, the Division purchased servers with an energy-saving technology that exceeds EPA's Energy Star requirements. Together, these purchases have reduced the Division's power requirements and heat output by over 50 percent. ENRD continues to make further improvements in consolidation and virtualization every year and is working towards the goals specified in the Data Center Transformation Initiative (DCTI) guidelines.

#### **E. Achieving Cost Savings and Efficiencies**

The Division has demonstrated a commitment to achieve cost savings and has attained impressive measurable results. In the area of litigation support, ENRD has been innovative and forward-thinking with its cost-effective, in-house litigation support computer lab, which provides a wide range of services, such as scanning, OCR-processing, e-Discovery/data processing, email threading, and database creation and Web hosting. In FY 2015, the Division recognized savings of over \$12 million, compared to what the in-house services provided would have cost if outsourced to a contractor/vendor.

Striving to continue employing technological solutions, ENRD will implement cost-effective alternatives such as videoconferencing and web-based applications for meetings. We continue to push the use of on-line travel reservations, as opposed to using agent assisted booking services, leading to additional cost savings.



## II. Summary of Program Changes

Initiative	Description				Page
		Pos.	FTE	Dollars (\$000)	
Enhancing the Safety of America's Workforce	Enhance Division's enforcement of worker protection statutes	6	3	\$1,000	p. 36
Ensuring the Welfare of Animals in the United States	Implement Division's new authorities enforcing animal welfare statutes	3	2	\$1,000	p. 40
Improving Environmental Enforcement in Indian Country	Develop and litigate cases to address environmental violations in Indian Country	4	2	\$1,500	p. 44



On February 11, 2015, the Presidential Task Force on Wildlife Trafficking issued the [Implementation Plan](#) for the *National Strategy for Combating Wildlife Trafficking* that President Obama released on February 11, 2014. The Task Force, which is led by the Departments of State, Justice, and the Interior, and includes 14 additional federal departments and agencies, is charged with developing a government-wide strategy for fighting poaching and other wildlife trafficking. Wildlife trafficking has become an international crisis that threatens security, hinders sustainable economic development, and undermines the rule of law. The illicit trade in wildlife is decimating many species worldwide and threatens iconic species such as rhinoceroses, elephants, and tigers with extinction. Photo Credit: Ivory tusks confiscated by the Fish and Wildlife Service, USFWS



### III. Appropriations Language and Analysis of Appropriations Language

*Please refer to the General Legal Activities Consolidated Justifications.*

### IV. Decision Unit Justification

<b>Environment and Natural Resources Division -</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2015 Enacted	537	526	110,077
2016 Enacted	537	526	110,512
Adjustments to Base and Technical Adjustments			8,549
2017 Current Services	537	526	119,061
2017 Program Increases	13	7	3,500
2017 Program Offsets	0	0	0
2017 Request	550	533	122,561
<b>Total Change 2016-2017</b>	<b>13</b>	<b>7</b>	<b>12,049</b>

<b>Information Technology Breakout (of Decision Unit Total)</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount (\$000)</b>
2015 Enacted	18	18	5,107
2016 Enacted	18	18	5,479
Adjustments to Base and Technical Adjustments	0	0	-239
2017 Current Services	18	18	5,258
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	18	18	5,258
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>-239</b>

#### 1. Program Description

As stated in the Department of Justice Strategic Plan, ENRD works to:

- Pursue cases against those who violate laws that protect public health, the environment, and natural resources;
- Investigate and prosecute environmental crimes, including both pollution and wildlife violations;
- Defend against suits challenging federal statutes, regulations, and agency actions;
- Develop constructive partnerships with other federal agencies, state and local governments, and interested parties to maximize environmental compliance and stewardship of natural resources;

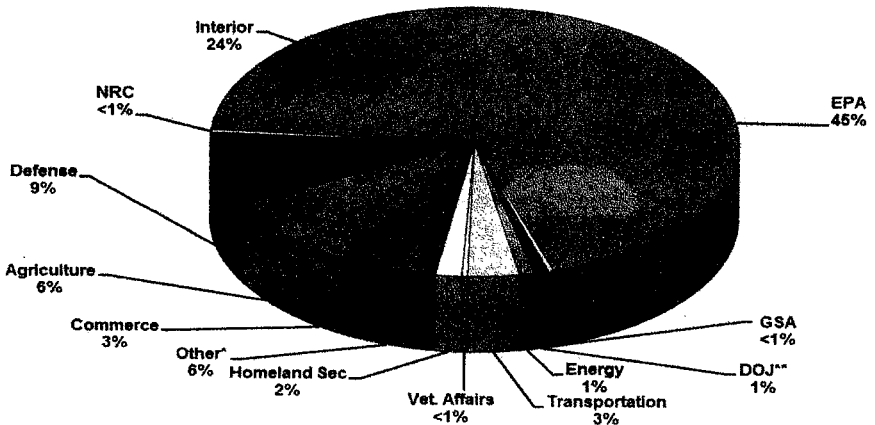


- Act in accordance with United States trust responsibilities to Indian tribes and individual Indians in litigation involving the interests of Indians. The United States holds close to 60 million acres of land and associated natural resources in trust for tribes and has a duty to litigate to protect this land and resources.

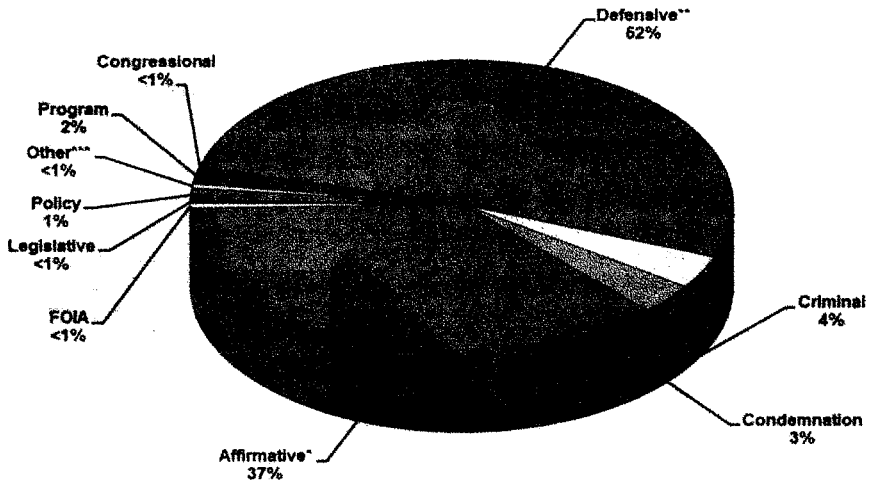
The Division focuses on both civil and criminal litigation regarding the defense and enforcement of environmental and natural resources laws and regulations, and represents many federal agencies in litigation (e.g., the Environmental Protection Agency, and the Departments of Agriculture, the Interior, Defense, and Homeland Security).

As the nation's chief environmental litigator, ENRD strives to obtain compliance with environmental and conservation statutes. To this end, we seek to obtain redress of past violations that have harmed the environment, establish credible deterrence against future violations of these laws, recoup federal funds spent to abate environmental contamination, and obtain money to restore or replace natural resources damaged through oil spills or the release of other hazardous substances. The Division ensures illegal emissions are eliminated, leaks and hazardous wastes are cleaned up, and drinking water is safe. Our actions, in conjunction with the work of our client agencies, enhance the quality of the environment in the United States and the health and safety of its citizens.

#### ENRD's Cases/Matters Pending by Client Agency (FY 2015)





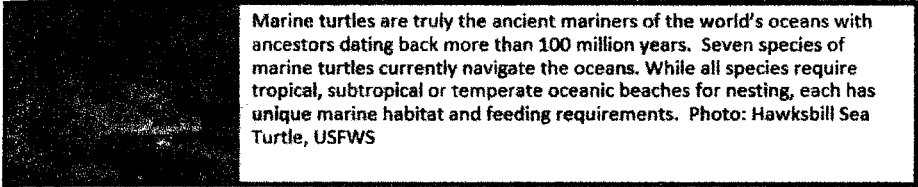
**ENRD's Cases/Matters Pending by Case Type (FY 2015)**

Civil litigating activities include cases where ENRD defends the United States in a broad range of litigation and enforces the nation's environmental and natural resources laws. Nearly one-half of the Division's cases are defensive or non-discretionary in nature. They include claims alleging noncompliance with federal, state and local pollution control and natural resources laws. Civil litigating activities also involve the defense and enforcement of environmental statutes such as the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Clean Air Act (CAA), the Clean Water Act (CWA), the National Environmental Policy Act (NEPA), and the Endangered Species Act (ESA).

The Division defends Fifth Amendment takings claims brought against the United States alleging that federal actions have resulted in the taking of private property without payment of just compensation, thereby requiring the United States to strike a balance between the interests of property owners, the needs of society, and the public fisc. ENRD also brings eminent domain cases to acquire land for congressionally authorized purposes ranging from national defense to conservation and preservation. Furthermore, the Division assists in fulfillment of the United States trust responsibilities to Indian Tribes. ENRD is heavily involved in defending lawsuits alleging the United States has breached trust responsibilities to Tribes by mismanaging Tribal resources and failing to properly administer accounts that receive revenues from economic activity on Tribal lands. The effectiveness of our defensive litigation is measured by the percentage of cases successfully resolved and savings to the federal fisc.



Criminal litigating activities focus on identifying and prosecuting violators of laws protecting wildlife, the environment, and public health. These cases involve fraud in the environmental testing industry, smuggling of protected species, exploitation and abuse of marine resources through illegal commercial fishing, and related criminal activity. ENRD enforces criminal statutes that punish those who pollute the nation's air and water; illegally store, transport and dispose of hazardous wastes; illegally transport hazardous materials; unlawfully deal in ozone-depleting substances; and lie to officials to cover up illegal conduct. The effectiveness of criminal litigation is measured by the percentage of cases successfully resolved. ENRD's case outcome performance results are included in the Performance and Resources Table contained in this submission.



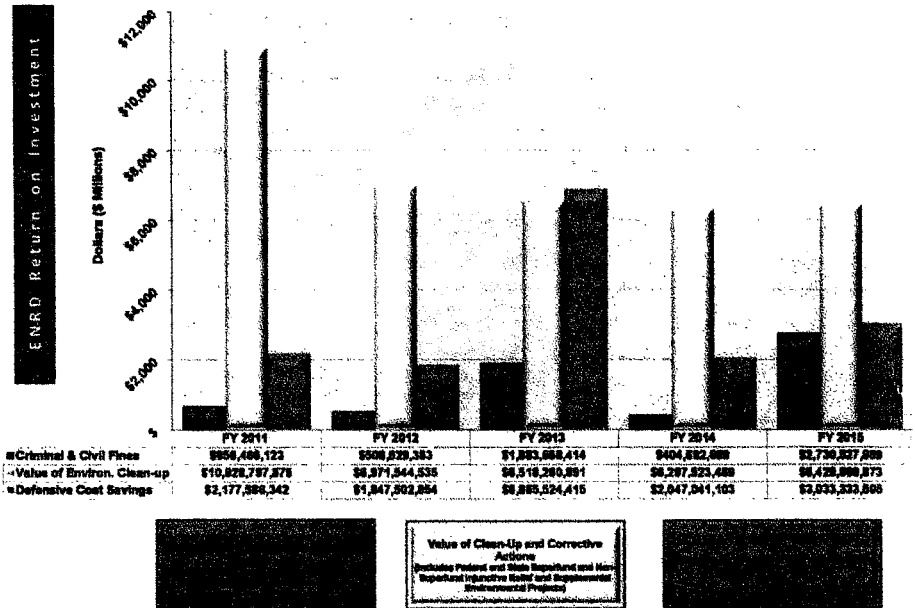
## ACCOMPLISHMENTS

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In **FY 2015**, ENRD successfully litigated 864 cases while working on a total of 6,729 cases, matters, and appeals. The Division recorded more than \$2.7 billion in civil and criminal fines, penalties, and costs recovered. The estimated value of federal injunctive relief (i.e., clean-up work and pollution prevention actions by private parties) obtained in FY 2015 exceeded \$6.4 billion. ENRD's defensive litigation efforts avoided costs (claims) of over \$3.0 billion in FY 2015. The Division achieved a favorable outcome in 95 percent of cases resolved in FY 2015. **In sum, ENRD continues to be a valuable investment of taxpayer dollars as the number of dollars returned to the Treasury exceeds ENRD's annual appropriation many times over.**

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Below are some notable successes from the Division's civil and criminal litigation dockets during FY 2015.

#### Civil Cases (Both Affirmative and Defensive)

##### • *Deepwater Horizon Oil Spill*

In 2015, the United States and the five Gulf states (Alabama, Florida, Louisiana, Mississippi and Texas) reached a settlement to resolve civil claims against BP arising from the April 20, 2010 Macondo well blowout and the massive oil spill that followed in the Gulf of Mexico. This global settlement resolves the governments' civil claims under the Clean Water Act and natural resources damage claims under the Oil Pollution Act, as well as remaining economic damage claims of the five states and local governments. Taken together this global resolution of civil claims is worth more than \$20 billion, and is the largest such settlement with a single entity in the Department's history.

Under the terms of a proposed consent decree lodged in October 2015 in federal court in New Orleans, BP must pay the following:

- a \$5.5 billion federal Clean Water Act penalty, plus interest, 80 percent of which will go to restoration efforts in the Gulf region pursuant to a Deepwater-specific statute, the RESTORE Act. This is the largest civil penalty in the history of environmental law.



- \$8.1 billion in natural resource damages, this includes \$1 billion BP already committed to pay for early restoration, for joint use by the federal and state trustees in restoring injured resources. BP will also pay up to an additional \$700 million, some of which is in the form of accrued interest, specifically to address any later-discovered natural resource conditions that were unknown at the time of the agreement and to assist in adaptive management needs. The natural resource damages money will fund Gulf restoration projects that will be selected by the federal and state trustees to meet five different restoration goals and 13 restoration project categories. These include restoration focusing on supporting habitats such as coastal wetlands, but also provide for specific resource types, such as marine mammals, fish and water column invertebrates, sturgeon, submerged aquatic vegetation, oysters, sea turtles, birds and lost recreational use, among others.
- \$600 million for other claims, including claims for reimbursement of federal and state natural resource damage assessment costs and other unreimbursed federal expenses and to resolve a False Claims Act investigation due to this incident.

The payments will be made over time and are backed by parent company guarantees from BP Corporation North America Inc. and BP P.L.C. Additionally, BP has entered into separate agreements to pay \$4.9 billion to the five Gulf states and up to a total of \$1 billion to several hundred local governmental bodies to settle claims for economic damages they have suffered as a result of the spill.

Finalization of the proposed decree is subject to consideration of numerous comments submitted by the public concerning the decree, as well as a judicial determination of whether the settlement is appropriate under applicable law.

Also during 2015, the district court completed trial of the U.S. claim for civil penalty against Anadarko, a company that owned 25% of the Macondo well but that did not operate, as a legal matter, either the Deepwater Horizon or the well. After considering evidence under the law applicable to such a penalty assessment, the District Court imposed a penalty of \$ 159.5 million.

In prior years, some of the parties accountable under federal law for this disaster have resolved claims with the United States for portions of that responsibility:

- In 2012, MOEX Offshore 2007 LLC, which had a 10 percent stake in the well, agreed to settle its liability for the Deepwater Horizon oil spill in a settlement with the United States valued at \$90 million. Approximately \$45 million of the \$90 million settlement was dedicated to directly benefit the Gulf in the form of penalties, as well as coastal and habitat protection projects.
- In 2013, Transocean, which owned and operated the Deepwater Horizon, paid a penalty of \$1 billion plus interest to resolve their civil liability under the Clean Water Act and also agreed to implement comprehensive changes in how they operate their drilling vessels in the Gulf of Mexico. At the same time, Transocean resolved its criminal



liability for the spill through a \$400 million plea agreement with the Department's Deepwater Horizon Task Force; that agreement included a criminal fine and remedial payments that should further both Gulf restoration and research on measures to make drilling safer both in the Gulf and around the world.

- In 2013, BP Exploration and Production, the majority owner of and an operator of the Macondo Well, pleaded guilty to illegal conduct leading to and after the disaster.criminal violations of the Clean Water Act and felony manslaughter charges. It resolved Clean Water Act violations and felony manslaughter charges through a \$4 billion plea agreement comprised of criminal fines, penalties, and restitution including \$2.4 billion in remedial payments that, like Transocean companies' payments, should further both Gulf restoration and research measures relating to drilling.



NOAA and USFWS supported a Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) shark and ray workshop hosted by Colombia in November 2014, where representatives from over 20 countries learned new techniques for monitoring and controlling the trade of protected shark species. Photo: Whitetip Shark, USFWS

#### • *Tribal Trust Cases*

The extraordinarily complex and multifaceted Tribal Trust cases command a large portion of ENRD's time and resources. The Division represents the United States, principally the Interior and Treasury Departments, in 21 pending cases in which 35 tribes or Indian plaintiffs demand "full and complete" historical trust accountings, monetary compensation for various breaches and mismanagement of trust, and trust reform measures relating to the United States' management of the plaintiffs' trust funds and trust lands, as well as the non-monetary resources (such as timber, oil, gas, coal, agricultural, range, easements, and rights of way) on those lands. Many of the pending cases are in settlement negotiations, while others are in varying stages of trial preparation; others are conducting trial preparation and settlement discussions simultaneously. The Division has enjoyed success since Fiscal Year 2011 by negotiating and reaching settlements with 86 tribes in 57 cases, while also conducting active litigation, including a full-blown trial, in several other cases. It has done so by balancing its duties to defend client programs with a commitment to make whole any tribe or Indian plaintiff that has suffered financial injury as a result of any trust fund or trust resource management practices.

#### • *Advancing Environmental Justice*

Under a \$12 million settlement with the United States and the state of New York, **Tonawanda Coke Corp.** will pay \$2.75 million in civil penalties, spend approximately \$7.9 million to reduce air pollution and enhance air and water quality and spend an additional \$1.3 million for environmental projects in the area of Tonawanda, New York, including the Niagara River and



Lake Ontario. The company must improve its processes, operations and monitoring for coke oven gas leaks, assess key equipment, repair or replace equipment, install new pollution controls and take many additional measures under a prescribed schedule. The settlement also requires Tonawanda Coke to pay a \$1.75 million civil penalty to the United States to resolve violations of the Clean Air Act, the Clean Water Act and the Emergency Planning and Community Right-to-know Act, and pay a \$1 million civil penalty to the state of New York, which is a co-plaintiff with the United States. In addition to the state penalty, Tonawanda Coke will pay another \$1 million to fund projects that will benefit the environment and the residents of Tonawanda.

Coke is used in the steel-mill and foundry industries in the steel-making process. The company's violations of the Clean Air Act resulted in releases of coke oven gas, which contains benzene and other harmful chemicals. Tonawanda failed to install air pollution controls on its coke ovens, failed to properly monitor equipment for coke oven gas leaks, failed to conduct required annual maintenance inspections of emission controls and proper operations and maintenance and failed to complete multiple required reports among other violations. For years, people living in the low-income community near the plant were forced to breathe air TCC had caused to be contaminated with benzene and particulates. Exposure to benzene and other hazardous air pollutants found in coke oven gas can significantly harm human health and excessive exposure to benzene is a known cause of cancer.

Tonawanda Coke's Clean Water Act violations include discharging wastewater containing cyanide, ammonia, naphthalene, and other prohibited pollutants to the Niagara River. Holding tanks were allowed to decay, pipes to leak and spill containment structures to become ineffective. Tonawanda Coke's illegal discharges and other Clean Water Act violations threatened human health and the ecology and economy of the Niagara River and Lake Ontario.

In another significant environmental justice case, the Division reached a settlement with **Marathon Petroleum Corporation** to resolve alleged Clean Air Act fuel quality emissions standards and record keeping, sampling and testing requirements violations at ten facilities. Marathon is required to take steps to reduce harmful air pollution emissions at facilities in three states. These violations may have resulted in excess emissions of air pollutants from motor vehicles, which can pose threats to public health and the environment. Marathon self-reported many of these issues to EPA. The company will spend over \$2.8 million on pollution controls to reduce emissions of volatile organic compounds on 14 fuel storage tanks at its distribution terminals in Indiana, Kentucky and Ohio. Volatile organic compounds are one of the primary constituents of smog and react in sunlight to form ground-level ozone. Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation and congestion and can worsen bronchitis, emphysema and asthma. Children, the elderly and people who have lung diseases such as asthma are particularly prone to these problems. Marathon will also pay a \$2.9 million civil penalty and retire 5.5 billion sulfur credits, which have a current market value of \$200,000. Sulfur credits are generated when a refiner produces gasoline that contains less sulfur than the federal sulfur standard. These credits can be sold to other refiners that may be unable to meet the standard.

Marathon is required to use innovative pollutant detection technology during the implementation of the environmental mitigation projects. Marathon will use an infrared gas-imaging camera to inspect the fuel storage tanks in order to identify potential defects that may cause excessive



emissions. If defects are found, Marathon will conduct up-close inspections and perform repairs where necessary. EPA's Next Generation Compliance Strategy promotes advanced emissions and pollutant detection technology so that regulated entities, the government and the public can more easily see pollutant discharges, environmental conditions and noncompliance. Many of the facilities where the pollution controls will be installed are located in areas that may present environmental justice concerns.

- ***Clean Air Act Litigation***

The Division and EPA reached an historic settlement with the automakers **Hyundai and Kia** that will resolve alleged Clean Air Act violations based on their sale of close to 1.2 million vehicles that will emit approximately 4.75 million metric tons of greenhouse gases in excess of what the automakers certified to EPA. The automakers will pay a \$100 million civil penalty, **the largest in Clean Air Act history**, to resolve violations concerning the testing and certification of vehicles sold in America and spend approximately \$50 million on measures to prevent any future violations. Hyundai and Kia will also forfeit 4.75 million previously claimed greenhouse gas emission credits, estimated to be worth over \$200 million. Automakers earn greenhouse gas emissions credits for building vehicles with lower emissions than required by law. These credits can be used to offset emissions from less fuel efficient vehicle models or sold or traded to other automakers for the same purpose. The greenhouse gas emissions that the forfeited credits would have allowed are equal to the emissions from powering more than 433,000 homes for a year. To reduce the likelihood of future vehicle greenhouse gas emission miscalculations, Hyundai and Kia have agreed to reorganize their emissions certification group, revise test protocols, improve management of test data and enhance employee training before they conduct emissions testing to certify their model year 2017 vehicles. In the meantime, Hyundai and Kia must audit their fleets for model years 2015 and 2016 to ensure that vehicles sold to the public conform to the description and data provided to EPA.



In the past decade, wildlife trafficking – the poaching or other taking of protected or managed species and the illegal trade in wildlife and their related parts and products – has escalated into an international crisis. Wildlife trafficking is both a critical conservation concern and a threat to global security with significant effects on the national interests of the United States and the interests of our partners around the world. Photo: White Rhinoceros, USFWS

- ***Clean Water Act Litigation***

The Division, EPA and the state of California reached a settlement requiring the **Lehigh cement plant** near Cupertino, California, to reduce toxic discharges of selenium and other metals to Permanente Creek, a tributary of San Francisco Bay. The company, owned by Hanson Permanente Cement Inc. and operated by Lehigh Southwest Cement Co., will spend more than \$5 million to install wastewater treatment and make other facility improvements to prevent future violations. The company will also pay \$2.55 million in civil penalties. The settlement addresses Lehigh's and Hanson's violations of the Clean Water Act. The Cupertino facility routinely discharged excessive selenium into Permanente Creek in violation of Lehigh's permits



from at least 2009 to 2014. The plant's discharges routinely exceeded standards for total suspended solids, total dissolved solids, turbidity, and pH and in some cases exceeded standards for mercury, hexavalent chromium, nickel and thallium. Since at least 2009 to 2014, the limestone mine and cement plant discharged millions of gallons daily of quarry process water and storm-water polluted with thousands of pounds of sediment and hundreds of pounds of selenium and other toxic metals, to Permanente Creek, in violation of the federal Clean Water Act. Lehigh must construct an advanced wastewater treatment system to significantly reduce its selenium and other metals discharges. Lehigh already installed an interim treatment system and a permanent system will be completed by 2017. Lehigh will make other facility improvements to remove sediment from its storm-water runoff, spending more than \$5 million overall to come into compliance.

Selenium is a naturally occurring element in limestone and other rock formations. When discharged at high concentrations to waterways, selenium becomes toxic to fish and other aquatic life and to birds and other animals that consume selenium-contaminated aquatic organisms. Permanente Creek, to which the Lehigh cement facility discharges, is listed as "impaired" for selenium under the Clean Water Act. Permanente Creek provides important habitat for red-legged frogs, a species listed as threatened under the Endangered Species Act.

#### • *ENRD's Bankruptcy Docket*

A historic settlement reached with Anadarko Petroleum Corp. and Kerr-McGee has gone into effect, allowing funds to be disbursed for cleanups across the country. The settlement resolves fraudulent conveyance claims brought by the United States and the Anadarko Litigation Trust, the trust against Anadarko Petroleum Corporation and its affiliates, the defendants, in the bankruptcy of Tronox Inc. and its subsidiaries. Pursuant to the settlement agreement, the defendants paid \$5.15 billion, plus interest, to the trust. The trust is expected to distribute more than \$4.4 billion to the United States, state governments, the Navajo nation and four environmental response trusts created in the bankruptcy to clean up contaminated property. An estimated more than \$600 million will be paid to a trust created to pay tort victims. The settlement constitutes the largest payment for the clean-up of environmental contamination ever obtained in a lawsuit brought by the Department of Justice.

U.S. District Judge Katherine B. Forrest, in approving the settlement, noted that the case arises from a "series of transactions by the Kerr-McGee Corp. that resulted in the spin-off of Tronox, which Kerr-McGee left saddled with the massive environmental and tort liabilities it had accumulated over the course of decades of operating in the chemical, mining, and oil and gas industries, but without sufficient assets with which to address these liabilities." For this reason, both the United States and the Tronox estate, now represented by the trust, brought fraudulent conveyance claims against the defendants.

#### • *Wetlands Protection*

Three subsidiaries of North Carolina-based **Duke Energy Corporation**, the largest utility in the United States, pleaded guilty to nine criminal violations of the Clean Water Act at several of its North Carolina facilities and agreed to pay a \$68 million criminal fine and spend \$34 million on



environmental projects and land conservation to benefit rivers and wetlands in North Carolina and Virginia. Four of the charges are the direct result of the massive coal ash spill from the Dan River steam station into the Dan River near Eden, North Carolina, in February 2014. The remaining violations were discovered as the scope of the investigation broadened based on allegations of historical violations at the companies' other facilities. The utility is alleged to have failed to maintain equipment at the Dan River and Cape Fear facilities and discharged coal ash and/or coal ash wastewater from impoundments at the Dan River, Asheville, Lee and Riverbend facilities.

Duke Energy Business Services LLC, Duke Energy Carolinas LLC and Duke Energy Progress Inc. will pay a \$68 million criminal fine and a total \$24 million community service payment to the National Fish and Wildlife Foundation for the benefit of the riparian environment and ecosystems of North Carolina and Virginia. The companies will also provide \$10 million to an authorized wetlands mitigation bank for the purchase of wetlands or riparian lands to offset the long-term environmental impacts of its coal ash basins. In addition, they will pay restitution to the federal, state and local governments that responded to the Dan River spill and be placed on a period of supervised probation for five years.

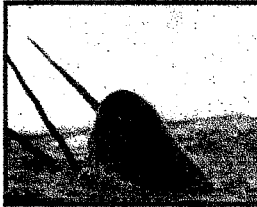
Approximately 108 million tons of coal ash are currently held in coal ash basins owned and operated by Duke in North Carolina. Duke Energy Corporation subsidiaries also operate facilities with coal ash basins in South Carolina, Kentucky, Indiana, and Ohio.

- ***Enforcement of the Clean Water Act Through Publicly Owned Sewer Cases***

The city of **Fort Smith, Arkansas**, will spend more than \$200 million over the next 12 years on upgrades to its sewer collection and treatment system to reduce discharges of raw sewage and other pollutants into local waterways. Under a settlement filed in federal court in the Western District of Arkansas, Fort Smith will also pay a \$300,000 civil penalty and spend \$400,000 on a program to help qualified low-income residential property owners to repair or replace defective private sewer lines that connect to the city collection system. The agreement resolves alleged Clean Water Act violations related to Fort Smith's failure to properly operate and maintain its sewer collection and treatment system. Since 2004, Fort Smith has reported more than 2,000 releases of untreated sewage from its municipal sewage system, resulting in more than 119 million gallons of raw sewage flowing into local waterways, including the Arkansas River. These types of releases, known as sanitary sewer overflows, cause serious water quality and public health problems. Fort Smith also violated limits for discharges of various pollutants from its Massard and P Street wastewater treatment plants numerous times over the last decade. Many of the manholes and pump stations from which Fort Smith's sanitary sewer overflows occur are located in low-income and minority communities. To reduce sanitary sewer overflows Fort Smith will conduct a comprehensive assessment of its sewer system to identify defects and places where storm water may be entering the system. The city will also repair all sewer pipe segments and manholes that are likely to fail within the next 10 years, develop projects to improve its sewers' performance and implement a program to reduce the introduction of fats, oil and grease into its system, to reduce root intrusion, and to clean the system of debris which can cause sanitary sewer overflows. Fort Smith will also implement a program to determine whether human waste is entering and being released from the city's storm water system.



The Division continues to reach agreements with municipalities to upgrade their sewage treatment plants. EPA's Clean Water Act initiative focuses on reducing discharges from sewer overflows by obtaining cities' commitments to implement timely, affordable solutions, including the increased use of green infrastructure and other innovative approaches. Raw sewage contains pathogens that threaten public health, leading to beach closures and public advisories against fishing and swimming. This problem particularly affects older urban areas, where minority and low-income communities are often located. The United States has reached similar agreements in the past with numerous municipal entities across the country including Mobile and Jefferson County, Alabama (Birmingham); Atlanta and DeKalb County, Georgia; Knoxville and Nashville, Tennessee; Miami-Dade County, Florida; New Orleans, Louisiana; Hamilton County (Cincinnati), Ohio; Northern Kentucky Sanitation District #1; and Louisville, Kentucky.



Narwhals are marine mammals that are protected by the Marine Mammal Protection Act and are listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). It is illegal to import parts of the narwhal into the United States without a permit and without declaring the parts at the time of importation to U.S. Customs and Border Protection and the U.S. Fish and Wildlife Service. Photo: Narwhals, USFWS.

#### • *Use of Next Generation Technologies*

The Division reached a settlement with **Total Petroleum Puerto Rico Corp.** (Total Puerto Rico) to resolve Resource Conservation Recovery Act (RCRA) violations alleged at 31 gas stations in Puerto Rico and four gas stations in the U.S. Virgin Islands that contain underground storage tanks (USTs) owned by Total Puerto Rico. These USTs typically hold large quantities of gasoline and can cause significant environmental damage if allowed to leak. The company agreed to pay a \$426,000 civil penalty, implement compliance measures valued at approximately \$1 million and undertake a supplemental environmental project (SEP) consisting of a centralized monitoring system estimated to cost approximately \$600,000. Total Puerto Rico is alleged to have violated RCRA and the Puerto Rico Underground Storage Tank Control Regulations (PRUSTR) by failing to report and investigate suspected leaks, monitor for leaks; provide adequate protection against corrosion and overflows, adequately secure dispensers and lines against tampering when facilities were temporarily closed, adequately secure monitoring wells against tampering and maintain records of release detection monitoring.

The centralized monitoring component of the settlement is consistent with EPA's Next Generation advanced technology enforcement efforts. Total Puerto Rico will be able to rapidly identify and respond to actual or potential gas leaks at its gas stations with actively operating USTs, each of which will be equipped with the capability to transmit monitoring data to one central location on a 24/7/365 basis. Total Puerto Rico will install, or upgrade to, a fully automated electronic release detection monitoring system at 137 facilities with Total-owned USTs in active operation, or those acquired by Total, and will operate the systems for at least three years. This is the second judicial settlement in Puerto Rico requiring a defendant to



implement company-wide automated electronic release detection with a centralized monitoring capability. A settlement in 2011 with Chevron Puerto Rico covered over 140 gas stations for a period of five years.

### ***Criminal Cases***

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- ***Enforcing the Laws Against Wildlife Trafficking***

Christopher Hayes, the President and owner of a Florida auction house was sentenced to 36 months in prison followed by two years of supervised release for his role in the illegal wildlife smuggling conspiracy in which he bought, sold and smuggled rhinoceros horns and objects made from rhino horn, elephant ivory and coral that were smuggled from the United States to China. Hayes' corporation, Elite Estate Buyers Inc., located in Boynton Beach, Florida must pay a \$1.5 million criminal fine to the Lacey Act reward fund, and it is banned from trading wildlife during a five year term of probation. Hayes and Elite admitted to being part of a felony conspiracy in which the company helped smugglers traffic in endangered and protected species in interstate and foreign commerce and falsified records and shipping documents related to the wildlife purchases in order to avoid the scrutiny of the Fish and Wildlife Service (FWS) and U.S. Customs and Border Protection. Elite aided foreign buyers by directing them to third-party shipping stores that were willing to send the wildlife out of the country with false paperwork. Charges were brought after Hayes purchased endangered black rhinoceros horns from an undercover special agent with the U.S. Fish & Wildlife Service.

Hayes and his company sold six endangered black rhino horns. Two of the horns were sold for \$80,500 to Ning Qiu, a Texas resident involved in smuggling the horns to China. Qiu has pleaded guilty to being part of a broader conspiracy to smuggle rhinoceros horns and items made from rhinoceros horns to Zhifei Li, the owner of an antique business in China and the ringleader of a criminal enterprise that smuggled 30 rhinoceros horns and numerous objects made from rhinoceros horn and elephant ivory worth more than \$4.5 million from the United States to China. Qiu was sentenced to serve 25 months in prison, and Li was sentenced to a prison term of 70 months. Elite and Hayes also admitted to selling items made from rhinoceros horn, elephant ivory and coral to the President of an antiques business in Canada, who they then directed to a local shipper that agreed to mail the items in Canada without required permits. That individual, Xiao Ju Guan, was sentenced to 30 months in prison.

The prosecution of Elite and Hayes is part of Operation Crash, a continuing effort by the Special Investigations Unit for the FWS' Office of Law Enforcement in coordination with the Department of Justice to detect, deter and prosecute those engaged in the illegal killing of rhinoceros and the unlawful trafficking of rhinoceros horns and elephant ivory.

- ***Lacey Act Enforcement***

A Maryland man and his Delaware based business, Harbor House Seafood, were found guilty of trafficking in \$1.2 million worth of illegally possessed oysters, creating false health and safety records, and conspiracy charges, and sentenced to serve 26 months in prison followed by three years of supervised release. The defendant was ordered to pay a \$62,500 fine and to pay New Jersey \$140,000 for the restoration of oyster beds in Delaware Bay. Harbor House was ordered



to pay a \$250,000 fine and was sentenced to five years of probation. Suppliers and co-conspirators in this case must pay total fines and forfeitures of over \$625,000, along with \$194,000 of restoration costs, and a total of 80 months in prison. For more than four years, the defendant conspired with New Jersey oystermen to cover up the overharvest and purchase of oysters from the Delaware Bay.

The Lacey Act prohibits creating or submitting false records for fish or wildlife moving in interstate commerce and also prohibits trafficking in fish or wildlife known to be illegally taken or possessed. The FDA and state health agencies require that oyster purchasers and sellers maintain accurate records of the amounts and locations of oyster harvest for all oysters they buy and sell in order to protect public health and minimize the impact of any oyster-borne outbreak of disease.

#### • *Vessel Pollution Cases*

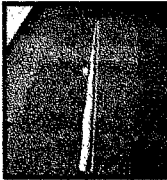
In *U.S. v Carbofin S.p.A.*, an Italian domiciled company that owned and operated the *M/T Marigola* was sentenced to pay an overall criminal penalty of \$2.75 million for violations of the Act to Prevent Pollution from Ships (APPS). A vessel like the *M/T Marigola*, must maintain an oil record book in which transfer and disposal of all oil-contaminated waste and the discharge overboard and disposal otherwise of such waste, must be fully and accurately recorded by the person or persons in charge of the operations. Oil-contaminated bilge waste can be discharged overboard if it is processed through on-board pollution prevention equipment known as the oily water separator (OWS). Waste oil and sludge can only be disposed of using an on-board incinerator or by discharging the waste to a shore-side facility, barge or tanker truck. The ship's engineers falsified the oil record book after they directed improper disposal of oily waste. \$600,000 of the penalty will be paid to the National Marine Sanctuary Foundation for the benefit of the Florida Keys National Marine Sanctuary. The funds are to be used to support research, education, and the protection and preservation of natural resources located in and adjacent to the sanctuary, including the cleanup and remediation of pollution in the sanctuary; restoration of injured resources, particularly coral reefs and seagrass beds and species dependent on those habitats.

#### • *Biodiesel Fraud Prosecutions*

In *U.S. v E-biofuels*, the operators of E-biofuels LLC, of Middletown, Indiana, pleaded guilty to a \$145 million biofuels fraud scheme, in which they sold over 35 million gallons of biodiesel to customers, falsely claiming that the fuel was eligible for federal renewable energy incentives. One of the defendants also pleaded guilty to a related \$58.9 million securities fraud, which victimized over 625 investors and shareholders of Imperial Petroleum, a publicly-traded company and the parent company of E-biofuels. Biodiesel is a fuel that can be used in diesel engines and that is made from renewable resources, including soybean oil and waste grease from restaurants. Under the Energy Independence and Security Act, properly manufactured biodiesel was eligible for a one dollar per gallon tax credit as well as another valuable credit called a Renewable Identification Number (RIN) that petroleum refiners and importers must comply with to satisfy their federal renewable fuel obligations. The defendants admitted that they knew that E-biofuels was fraudulently reselling biodiesel that they obtained from co-conspirators in New Jersey, which had already been used to claim biodiesel incentives. By falsely claiming to have



made it themselves in Middletown, the co-conspirators and their companies realized more than \$55 million in gross profits, at the expense of their customers and U.S. taxpayers. The defendants pleaded guilty to conspiracy, false claims against the Internal Revenue Service (IRS), wire fraud and lying to the EPA and the IRS, and face up to 20 years of imprisonment on some of the charges, as well as large fines and the requirement that they provide full restitution to the victims of this crime, which include U.S. taxpayers, truck stop companies, fuel traders and others. The co-conspirators will also have to forfeit \$7.5 million in seized funds, jewelry, artwork, cars and homes they purchased with the funds obtained through the scheme. Co-conspirators in New Jersey, who operated the companies CIMA Green and Caravan Trading Company, supplied the fuel to E-biodiesel that had already been used to claim tax credits and RINs. The co-conspirators pleaded guilty to wire fraud, lying to investigators and engaging in prohibited financial transactions, and money laundering.



The narwhale is a rarely seen arctic whale. The male of this species has a single left tusk that is a modified upper incisor. The tusk is spirally twisted, usually in a counter-clockwise direction. In a mature specimen the tusk can be from two to seven meters long. Enamel may be present at the tip of the tusk. The cementum frequently displays longitudinal cracks which follow the depressed areas of the spiral pattern. As a result, narwhal tusk cross-sections are rounded with peripheral indentations. The cementum is separated from the dentine by a clearly defined transition ring. Like killer and sperm whale teeth, the dentine can display prominent concentric rings. Photo: Narwhal tusk, USFWS.



## 2. Performance and Resources Table

Division Unit/Program: Environment & Natural Resources Division										
Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law - Objectives 2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime, and Objective 2.6 Protect the federal fisc and defend the interests of the United States										
Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels - Objective 3.8 Strengthen the government to government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.										
WORKLOAD/RESOURCES 1/										
DIVISION TOTAL WORKLOAD	Target FY 2015		Actual FY 2015		FY 2016		Current Services Adjustments and FY 17 Program Changes		Requested (Total) FY 2017	
	5,400		5,702		5,400				5,400	
			83%		83%				83%	
CIVIL	4,955		5,058		4,955				4,955	
	220		328		220				220	
	280		267		280				280	
CRIMINAL	35		48		35				35	
	FTE		FTE		FTE		FTE		FTE	
	\$ 500		\$ 500		\$ 500		\$ 500		\$ 500	
DIVISION RESOURCES - Total Year Costs & FTE's (Appropriated only)										
	528 [115]		\$ 110,077		528 [115]		\$ 110,512		533 [15]	
							7		\$ 12,049	
Program Activity	Target FY 2015		Actual FY 2015		FY 2016		Current Services Adjustments and FY 17 Program Changes		Requested (Total) FY 2017	
CIVIL										
TOTAL COSTS & FTE	473 \$ 99,089		488 \$ 98,833		476 \$ 99,461		2 \$ 9,194		478 \$ 108,655	
OUTPUT 1/										
1. Number of cases active/closed	3,235		3,824		3,235		1,630		1,630	
2. Number of matters active/closed	140		201		127		80		140	
OUTCOME*										
1. Affirmative cases successfully resolved	no estimate		348		99%		no estimate		# Resolved	
2. Defensive cases successfully resolved	no estimate		443		99%		no estimate		no estimate	
									75%	
3. Penalties Awarded 2*										
- Federal	Superfund		Superfund		Superfund		Non-Superfund		Non-Superfund	
- State	no estimate		no estimate		no estimate		no estimate		no estimate	
4. Clean-up Costs Awarded 4/										
- CERCLA Federal Cost Recovery 3/ 5/	no estimate		\$ 1,798,395,064		no estimate		no estimate		no estimate	
- Federal Hazardous Relief	no estimate		\$ 2,547,147,644		no estimate		no estimate		no estimate	
- CERCLA State Cost Recovery	no estimate		\$ 172,606,605		no estimate		no estimate		no estimate	
- State Hazardous Relief	no estimate		\$ 6,000,000		no estimate		no estimate		no estimate	
5. Supplemental Environmental Projects (SEP's) 6/										
- Value of Federal SEP's	no estimate		\$ 1,149,000		no estimate		no estimate		no estimate	
- Value of State SEP's	no estimate		\$ -		no estimate		no estimate		no estimate	
6. Environmental Mitigation Projects 7/										
- Value of Federal SEP's	no estimate		no estimate		no estimate		no estimate		no estimate	
7. Costs Avoided (Saved the U.S. in Defense Cases) 8/										
- Value of Federal SEP's	no estimate		\$ 3,033,333,505		no estimate		no estimate		no estimate	



## Performance and Resources Table (Cont.)

CERCLA	TOTAL COSTS & FTE		FTE		\$000		FTE		\$000		FTE		\$000		FTE		\$000	
	OUTPUT 1/		Active		Closed		Active		Closed		Active		Closed		Active		Closed	
1. Number of cases adjudicated	200		80		195		71		200		80		200		80		200	
2. Number of matters adjudicated	27		8		42		6		27		8		27		8		27	
OUTCOME*																		
1. Number of criminal cases successfully resolved	no estimate		# Resolved		95%		95%		# Resolved		90%		90%		# Resolved		80%	
2. Dollars Awarded	no estimate		Superfund		Non-Superfund		Superfund		Non-Superfund		Superfund		Non-Superfund		Superfund		Non-Superfund	
- Fines &/	no estimate		no estimate		no estimate		\$ 85,515,639		no estimate		no estimate		no estimate		no estimate		no estimate	
- Restoration	no estimate		no estimate		no estimate		62,665,417		no estimate		no estimate		no estimate		no estimate		no estimate	
- Community Service Funds 10/	no estimate		no estimate		no estimate		40,770,000		no estimate		no estimate		no estimate		no estimate		no estimate	
3. Criminal Environmental Compliance Plan 11/	no estimate		no estimate		no estimate		\$ 3,144,000		no estimate		no estimate		no estimate		no estimate		no estimate	

**Additional Explanation for Targets, Program Changes, and Program Requests**

\* In accordance with Department guidance, estimates of performance are not projected for the noted categories

**Date Publication, Validation, Verification, and Legislation:**

1/ A matter is defined as "an issue requiring attorney time (i.e., congressional & legislative inquiries, Freedom of Information Act (FOIA) inquiries, notice of intent to sue, or policy issues)." Active case/statistics are those currently being worked on as of the reporting date for the current fiscal year. Closed case/statistics are fiscal year-to-date for the reporting date. Cases and matters reported here are those that had time reported.

2/ Penalties Awarded (includes: Civil & Stipulated Penalties, Natural Resources and other damages, Court Costs, Interest on dollars awarded, Attorney's Fees, and Royalties paid in cases involving the use of U.S. mineral lands)

3/ CERCLA is the Comprehensive Environmental Response, Compensation and Liability Act of 1980. Funds from the Environmental Protection Agency (EPA) used to enforce this statute are called "Superfund". Monies in the "Superfund" category replenish this fund.

4/ Cost recovery is awarded to federal & state governments for reimbursement of the clean-up of sites contaminated with hazardous substances. (Inactive relief is estimated clean-up costs for contaminated sites which are court ordered to be completed by the defendant.

5/ Includes monies paid by the Federal Government for its share of clean-up costs of Superfund sites.

6/ Supplemental Environmental Projects (SEP) are environmentally beneficial projects that defendants are ordered to perform by the court (i.e., a factory installing a device to reduce the release of pollutants into the environment)

7/ A mitigation project is actions a defendant agrees to take to remedy the harm caused by its past non-compliance.

8/ Costs included is the difference between the amount for which the government is sued, and the amount actually paid to plaintiffs.

9/ Includes Special Assessments, Reimbursement of Court Costs and Attorneys' Fees, and Asset Confiscation

10/ Community Service Funds represents actions which benefit the environment and local community that defendants are ordered to complete in addition to any other sentence

11/ Criminal Environmental Compliance Plan is a court-ordered action that requires a defendant to implement a "compliance plan" that sets out various actions that defendants must undertake in an effort to bring their acts into compliance.

Data Collection & Storage: The majority of the performance data submitted by ENRD are generated from the Division's Case Management System (CMS).

Data Validation and Verification: The division has instituted a formal data quality assurance program to ensure a quarterly review of the Division's docket. The case systems data are monitored by the division to maintain accuracy

Data Limitations: Timeliness of notification by the courts.

Data does not include United States Attorney (USA) exclusive cases



Performance Measure Table

PERFORMANCE MEASURE TABLE										
Decision Unit: Environment and Natural Resources Division										
Strategic Objectives	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target
2.6, 3.8	EFFICIENCY Measure	Total dollar value awarded per \$1 of expenditures (Affirmative)	\$174	\$109	\$117	\$95	\$81	\$132	\$81	\$81
2.6, 3.8	EFFICIENCY Measure	Total dollars saved the government per \$1 of expenditures (Defensive)	\$30	\$26	\$107	\$30	\$22	\$42	\$22	\$22
2.6, 3.8	OUTCOME Measure	Civil affirmative cases successfully resolved	98%	98%	98%	99%	85%	99%	85%	85%
2.6, 3.8	OUTCOME Measure	Civil defensive cases successfully resolved	92%	92%	87%	90%	75%	93%	75%	75%
2.6, 3.8	OUTCOME Measure	Criminal cases successfully resolved	98%	98%	95%	91%	90%	95%	90%	90%
2.6, 3.8	OUTPUT Measure	Number of criminal cases (active and closed) 1/	344	313	283	265	280	267	280	280
2.6, 3.8	OUTPUT Measure	Number of criminal matters (active and closed) 1/	22	13	45	47	35	48	35	35
2.6, 3.8	OUTPUT Measure	Number of civil cases (active and closed) 1/	5,738	5,203	5,995	5,138	4,865	5,059	4,865	4,865
2.6, 3.8	OUTPUT Measure	Number of civil matters (active and closed) 1/	259	253	379	290	220	328	220	220

1/ Measure includes cases and matters with time reported.



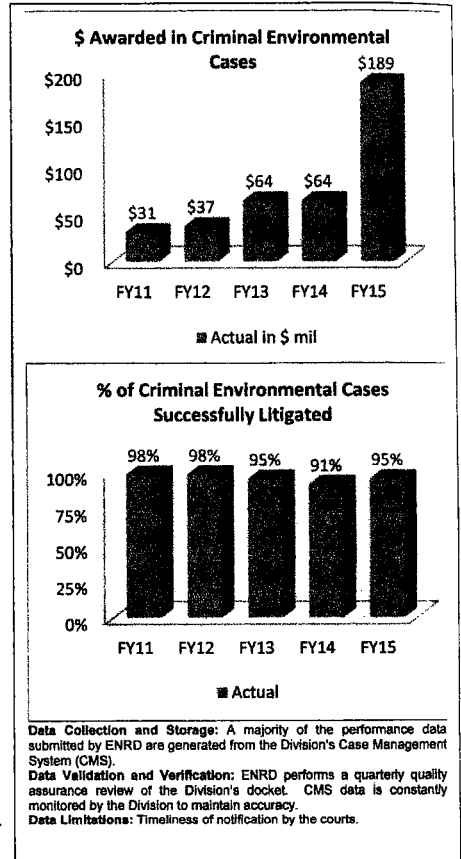
### 3. Performance, Resources, and Strategies

The Environment and Natural Resources Division contributes to the Justice Department's Strategic Goal Two: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law. The Division focuses on both civil and criminal litigation within this strategic objective. ENRD also contributes to Strategic Goal Three: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels. The Division participated in the Department's Strategic Objective Review exercise during 2014 which was conducted in accordance with the Government Performance and Results Modernization Act of 2010. Under Strategic Objective 2.6, Protect the federal fisc and defend the interests of the United States which falls within Strategic Goal 2, the Department was determined to be making noteworthy progress. Under Strategic Objective 3.8, Strengthen the government-to-government relationship between tribes and the United States, the Department was determined to be making satisfactory progress. The results of those efforts are included on OMB's performance.gov website. An explanation of performance by litigating activity including targets and results follows.

#### Criminal Litigating Activities

##### *a. Performance Plan and Report for Outcomes*

Vigorous prosecution remains the cornerstone of the Department's integrated approach to ensuring broad-based environmental compliance. It is the goal of investigators and prosecutors to discover and prosecute criminals before they have done substantial damage to the environment (including protected species), seriously affected public health, or inflicted economic damage on consumers or law-abiding competitors. The Department's environmental protection efforts depend on a strong and credible criminal program to prosecute and deter future wrongdoing. Highly publicized prosecutions and tougher sentencing for environmental criminals are spurring improvements in industry practice and greater environmental compliance. Working together with federal, state and local law enforcement, the Department is meeting the challenges of increased referrals and more





complex criminal cases through training of agents, officers and prosecutors, outreach programs, and domestic and international cooperation.

# **I. Performance Measure - Percent of Criminal Environmental Cases Successfully Resolved**

❖ ***FY 2015 Target: 90%***

❖ ***FY 2015 Actual: 95%***

**Discussion:** In FY 2015, ENRD's Environmental Crimes Section successfully prosecuted 79 defendants, including a Tilghman Island, Maryland, fisherman for conspiring to violate the Lacey Act and defraud the United States through the illegal harvesting and sale of 185,925 pounds of striped bass. The defendant was ordered to pay \$498,000 in restitution and fined \$40,000 to the state of Maryland for the damage caused to the striped bass. From at least 2007 to 2011, the co-conspirators illegally harvested at least 185,925 pounds of striped bass from the Chesapeake Bay in violation of Maryland regulations relating to harvest method, amounts, tagging and reporting. To conceal their crimes, they falsified paperwork submitted to the state of Maryland relating to their harvests. The state in turn submits such paperwork to federal and interstate agencies responsible for setting harvest levels all along the eastern seaboard. The illegally harvested striped bass was sold to wholesalers in Maryland, New York, Pennsylvania and Delaware for a total of \$498,293. The co-conspirators pleaded guilty to their participation in the conspiracy, and were ordered to pay fines and restitution, and received sentences ranging from probation to prison.

This investigation started in February 2011 when the Maryland Department of Natural Resources found tens of thousands of pounds of striped bass snagged in illegal, anchored nets before the season officially reopened. The conspirators were seen on the water in the vicinity of the illegal nets. The subsequent investigation unveiled a wider criminal enterprise for which Hayden was sentenced today.

**FY 2016/2017 Performance Plan:** We have set our target at 90 percent of cases successfully litigated for FY 2016 and FY 2017. ENRD targets are generally set at an attainable performance level so that there is no incentive to ramp up prosecutions or lawsuits against insignificant targets for "easy" wins solely to meet higher targets. Such an approach would do a disservice to the public by steering litigation away from more complicated problems facing the country's environment and natural resources.

**Public Benefit:** The Division continues to produce successful criminal prosecutions relating to environmental statutes. These successes ensure compliance with the law and lead to specific improvements in the quality of the environment of the United States, and the health and safety of its citizens. Additionally, ENRD has had numerous successes in prosecuting vessels for illegally disposing of hazardous materials into United States waterways. These successes have improved the quality of our waterways and promoted compliance with proper disposition of hazardous materials. Also, the Division has successfully prosecuted numerous companies for violations of environmental laws which endangered their workers. Our successes lead to safer workplaces and fewer lives lost to hazardous conditions.



## II. Performance Measure - \$ Awarded in Criminal Environmental Cases

❖ ***FY 2015 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.***

❖ ***FY 2015 Actual: \$188.6 million***

**Discussion:** The Division prosecuted American Pallet Recycling, L.L.C. (APR) and its former president and owner, for criminal violations of the Plant Protection Act, as a result of falsifying stamps that certified wood pallets were heat treated to prevent pest infestation, and were suitable for use in international transportation. The company and its owner will pay a fine of \$101,000. The Department of Agriculture requires the heat treatment of wood pallets used in international transactions. The requirement is to prevent parasites and plant diseases from potentially entering the United States in wood packaging materials. APR sold wood pallets to multiple other companies who used the wood pallets to transport products internationally. The purchasing companies ordered and thought they were purchasing heat treated pallets. This is the highest monetary penalty assessed for falsified use of a fraudulent mark related to wood packaging materials under the Plant Protection Act.

**FY 2016/2017 Performance Plan:** Not Applicable. In accordance with Department guidance, levels of performance for FY 2016 and FY 2017 are not projected for this indicator. Many factors affect our overall performance, such as proposed legislation, judicial calendars, etc. The performance of the Division tends to reflect peaks and valleys when large cases are decided. Therefore, we do not project targets for this metric annually.

**Public Benefit:** The Division continues to obtain criminal fines from violators, thereby removing economic benefits of non-compliance and leveling the playing field for law-abiding companies. Our prosecutorial efforts deter others from committing crimes and promote adherence to environmental and natural resources laws and regulations. These efforts result in the reduction of hazardous materials and wildlife violations and improve the quality of the United States' waterways, airways, land, and wildlife, thereby enhancing public health and safety.



Marine turtles are also subject to manmade disasters involving the world's oceans and beaches such as oil spills. Major threats in the marine environment include legal directed fisheries for marine turtles in some countries, accidental capture in artisan gill nets, commercial trawl nets and long line fisheries. Photo: Leatherback Sea Turtle, USFWS



## **B. Strategies to Accomplish Outcomes**

The Division will continue efforts to obtain convictions and to deter environmental crimes through initiatives focused on vessel pollution, illegal timber harvesting, laboratory fraud, chlorofluorocarbon (CFC) smuggling, wildlife smuggling, transportation of hazardous materials, and worker safety. ENRD will also continue to prosecute international trafficking of protected species of fish, wildlife, and plants with a host of international treaty partners.

Illegal international trade in wildlife is second in size only to the illegal drug trade, and our criminal prosecutors work directly on these cases, as well as assist United States Attorneys Offices and share ENRD expertise nationwide with state and federal prosecutors and investigators. We will focus on interstate trafficking and poaching cases on federal lands, and seek to ensure that wildlife conservation laws are applied uniformly and enforced across the country, seeking consistency in these criminal prosecutions and a vigorous enforcement program that serves as an international role model.

ENRD has partnered with other federal agencies, such as EPA, to pursue litigation against criminal violators of our nation's environmental policies. Egregious offenders are being brought to justice daily. The Division has worked collaboratively to identify violators who pose a significant threat to public health. By prosecuting criminal violations of regulations, ENRD is forcing compliance and discouraging continued disregard for public health.



## Civil Litigating Activities

### A. Performance Plan and Report for Outcomes

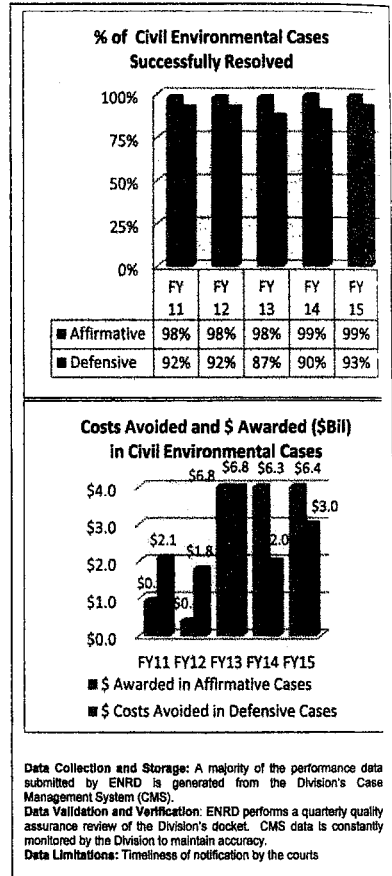
The Department enforces environmental laws to protect the health and environment of the United States and its citizens, defends environmental challenges to government programs and activities, and represents the United States in all matters concerning the protection, use, and development of the nation's natural resources and public lands, wildlife protection, Indian rights and claims, and the acquisition of federal property.

#### Performance Results

### I. Performance Measure - Percent of Civil Environmental Cases Successfully Resolved

- ❖ **FY 2015 Target:**  
85% Affirmative; 75% Defensive
- ❖ **FY 2015 Actual**  
99% Affirmative; 93% Defensive

**Discussion:** In FY 2015, ENRD successfully litigated a number of civil cases including a Clean Air Act case settled with Continental Carbon Company. The company agreed to install pollution control technology that will significantly cut emissions of harmful air pollutants at manufacturing facilities in Alabama, Oklahoma and Texas. Continental must pay a civil penalty of \$650,000, which will be shared with Alabama and Oklahoma, and must spend \$550,000 on environmental projects to help mitigate the harmful effects of air pollution on the environment and to benefit local communities, including at least \$25,000 on energy efficiency projects in the communities near each of the three facilities. Continental manufactures carbon black, a fine carbonaceous powder used in tires, plastics, rubber, inkjet toner and cosmetics, at facilities in Phoenix City, Alabama, Ponca City, Oklahoma, and Sunray, Texas. Because the oil used to make carbon black is high in sulfur, its production creates large amounts of nitrogen oxide, sulfur dioxide and particulate matter. This settlement supports EPA's and the Justice Department's national efforts to advance environmental justice by working to protect communities such as Phoenix City and Ponca City that have been disproportionately impacted by pollution. SO<sub>2</sub> and NO<sub>x</sub> have numerous adverse effects on human health and are significant





contributors to acid rain, smog and haze. These pollutants are converted in the air to particulate matter that can cause severe respiratory and cardiovascular impacts, and premature death.

In FY 2015, ENRD ensured that harmful sediments are removed from rivers, state-of-the-art pollution control devices are added to factories to provide cleaner air, sewage discharges are eliminated, and damaged land and water aquifers are restored. ENRD also worked successfully to ensure the integrity of municipal wastewater treatment systems. Each year, hundreds of billions of gallons of untreated sewage are discharged into the nation's waters from municipal wastewater treatment systems that are overwhelmed by weather conditions they are not designed to handle.

**FY 2016/2017 Performance Plan:** Considering our past performance, we aim to achieve litigation success rates of 85 percent Affirmative and 75 percent Defensive (average of 80 percent overall) for FY 2016 and FY 2017. ENRD's targets are set lower than the actual performance so that there is no incentive to ramp up prosecutions or lawsuits against easy targets solely to meet an "ambitious" goal. This sort of easy approach would do a disservice to the public by steering litigation away from more difficult problems facing the country's environment and natural resources. Our targets are set at demonstrably achievable levels and do not deter high performance.

**Public Benefit:** The success of the Department ensures the correction of pollution control deficiencies, reduction of harmful discharges into the air, water, and land, clean-up of chemical releases, abandoned waste, and proper disposal of solid and hazardous waste. In addition, the Department's enforcement efforts help ensure military preparedness, safeguard the quality of the environment in the United States, and protect the health and safety of its citizens.



Strong enforcement in the United States is critical in stopping those who kill and traffic in protected species. The Department of Justice (DOJ) works closely with federal enforcement agencies, including USFWS, the National Oceanic and Atmospheric Administration (NOAA), the Department of Homeland Security (DHS), and the U.S. Forest Service, to investigate and prosecute wildlife traffickers. Photo: Ivory confiscated by the Fish and Wildlife Service, USFWS

## **II. Performance Measure - Costs Avoided and \$ Awarded in Civil Environmental Cases**

- ❖ **Target:** *In accordance with Department guidance, targeted levels of performance are not projected for this indicator.*
- ❖ **FY 2015 Actual:** *\$3.0 billion avoided; \$6.4 billion awarded*

**Discussion:** The Division reached a settlement with Pechiney Plastic Packaging Inc. (Pechiney), and several other companies regarding the cleanup of the Pohatcong Valley Groundwater Contamination Superfund Site in Washington Borough, Washington Township, Franklin Township and Greenwich Township in Warren County, New Jersey. The Pohatcong site is



contaminated with trichloroethylene (TCE) and perchloroethylene (PCE). Under the proposed settlement, Pechiney will have primary responsibility for cleaning up contaminated soil and groundwater at the site, connecting some residents to public water to avoid contaminated groundwater, and operating systems to capture vapors that are getting into a manufacturing facility. As a precaution, Pechiney is continuing to monitor for vapor intrusion into homes at the site. In addition, EPA will receive approximately \$29.5 million for certain past costs. Pechiney will also perform current and future cleanup work estimated to cost \$62.5 million and will pay EPA's future oversight costs. As part of the settlement, EPA will recover civil penalties from Pechiney to resolve allegations that Pechiney violated a previous EPA order by failing to make satisfactory progress on a portion of the cleanup at the site. Pechiney will pay a cash penalty of \$282,000. Pechiney will also restore and preserve approximately 60 acres of land, valued at \$1.1 million, in Warren County, through a supplemental environmental project. This land will be converted to native grassland and will become part of the Morris Canal Greenway. The land will be managed by Warren County through its existing relationship with the New Jersey Youth Corps of Phillipsburg, a "second chance" program for young adults that provides opportunities to earn a GED while providing a valuable service to the community.

The Superfund program operates on the principle that polluters should pay for the cleanups, rather than passing the costs to taxpayers. EPA searches for parties legally responsible for the contamination at sites, and it seeks to hold those parties accountable for the costs of investigations and cleanups. Under today's settlement, the parties responsible for the site are paying for or performing the cleanup work.

FY 2016/2017 Performance Plan: Not Applicable. In accordance with Department guidance, levels of performance are not projected for this indicator. There are many factors that affect our overall performance, including proposed legislation and judicial calendars. The overall performance of the Division can be affected when large cases are decided, so we do not project annually.

### **III. Efficiency Measures**

#### **1) Total Dollar Value Awarded per \$1 Expenditures [Affirmative]**

#### **2) Total Dollars Saved the Government per \$1 Expenditures [Defensive]**

❖ *FY 2015 Target: \$81 awarded; \$22 saved*

❖ *FY 2015 Actual: \$132 awarded; \$42 saved*

FY 2016/2017 Performance Plan: The Division has an exemplary record in protecting the environment, Indian rights, and the nation's natural resources, wildlife, and public lands. ENRD anticipates continued success through vigorous enforcement efforts which generally will produce settlements and significant gains for the public and the public fisc.

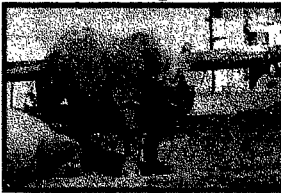


**Public Benefit:** The Division's efforts to defend federal programs, ensure compliance with environmental and natural resource statutes, win civil penalties, recoup federal funds spent to abate environmental contamination, ensure military preparedness, and ensure the safety and security of our water supply, demonstrate that the United States' environmental laws and regulations are being vigorously enforced. Polluters who violate these laws are not allowed to gain an unfair economic advantage over law-abiding companies. The deterrent effect of the Division's work encourages voluntary compliance with environmental and natural resources laws, thereby improving the environment, the quality of our natural resources, and the safety and health of U.S. citizens.

## **B. Strategies to Accomplish Outcomes**

As our environment changes, so do the actions we take to preserve the health and life of those residing within the borders of the United States. Environmental groups and other interested parties challenge Administration policies every year. ENRD is responsible for defending federal agencies carrying out Administration policies every day. The Division has realized some remarkable successes to date. In an effort to continue our successful record of litigation, the Division has sought new and creative ways to utilize our limited resources. For example, ENRD has adopted a policy of "porosity," whereby cases involving the responsibilities of different sections within ENRD can be litigated by a single attorney, rather than two or three attorneys from different sections. As such, ENRD's porosity policy allows us to litigate cases in a manner that conserves resources, without regard to bureaucratic distinctions within the Division. This policy has also resulted in more flexibility to shift workloads between attorneys when they become overburdened. Although cross-training staff grows our workforce's skills and abilities, it does not address long-term caseload issues.

The Division works collaboratively with client agencies towards adjudications, mediations, alternative dispute resolution (ADR), and settlements. These alternative methods of resolution are less contentious and save the government expenses associated with full-blown litigation. Water rights adjudications, reclamations, and inverse takings cases are typically handled in settlement mode versus litigation mode. Settlements often result in the most favorable outcome, and reach the largest number of people.



In December 2014, the U.S. Departments of State and Justice provided assistance to a UNODC-led workshop that resulted in the creation of the Association of Southeast Asian Nations (ASEAN) Legal Task Force for Wildlife. This new task force will develop a legal handbook, toolkit, and training course for ASEAN government officials. Photo: Black Rhinoceros, USFWS



## V. Program Increases by Item

### A. Improving Environmental Enforcement in Indian Country Initiative

<b>Item Name:</b>	<b>Improving Environmental Enforcement in Indian Country</b>
<b>AG Funding Priorities:</b>	Protecting vulnerable members of society
<b>Strategic Goal:</b>	<u>Strategic Goal III:</u> Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels.
<b>Strategic Objective:</b>	<u>Strategic Objective 3.8:</u> Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.
<b>Budget Decision Unit(s):</b>	Environment and Natural Resources Division
<b>Organizational Program:</b>	<i>Environmental Enforcement (EES)</i> <i>Indian Resources Section (IRS)</i> <i>Environmental Crimes Section (ECS)</i>
<b>Program Increase:</b>	<b>Positions <u>4</u>, Atty <u>4</u>, FTE <u>2</u>, Dollars <u>\$1,500,000</u></b>

#### Description of the Item

**ENRD is requesting \$1,500,000, including 4 attorney positions and 2 FTEs, to expand the Division's efforts to enforce environmental statutes to protect human health and the environment in Indian Country.**

Energy and other natural-resource development on Indian lands has increased substantially in the past decade and is projected to grow. With this boom have come air and water pollution and threats to human health and the environment, as well as threats to cultural resources vital to the preservation of traditional life-ways. Air-quality degradation, surface and drinking water contamination, and other strains on water resources are increasingly becoming major problems in Indian Country.

The federal environmental regulatory scheme generally relies on a dual enforcement structure with states. In most cases, a state agency is charged with policing air and water quality within the state. Our entire environmental regulatory structure contemplates a robust state enforcement authority. In Indian Country, most tribal governments have yet to achieve comparable enforcement capability. Thus, there is a gap in the United States' enforcement of



environmental laws in Indian Country. The rapid expansion of energy development on Indian lands in the last decade has strained the enforcement capacity of the federal and tribal agencies charged with protecting human health and the environment in Indian Country.

Areas of Indian Country that have seen rapid changes as a result of increased energy exploration and extraction often lack the road and pipeline infrastructure of other areas of the country. As a result, crushing loads are hauled by trucks over roads that were not designed for heavy-load traffic. Disposal facilities for hazardous and non-hazardous waste are located far from production facilities. Pollutants such as benzene, toluene, ethylbenzene, and Volatile Organic Compounds (“VOC”) are emitted into the atmosphere, and fugitive emissions of methane can be a major source of Greenhouse Gases (“GHG”). In the short term, exposure to benzene can cause short term irritation of the skin and upper respiratory tract. Long-term exposure may lead to cancer and developmental disorders. VOCs can form ground-level ozone which can cause breathing difficulties such as asthma – particularly in the elderly and children. Residents have expressed serious concerns about thousands of flares that not only release GHGs and VOCs, but also disrupt and disperse wildlife due to the sheer number of fires burning on the open prairie.

Tribal communities are also concerned about surface and drinking water quality, with the contamination of water sources used for drinking water, agriculture, fishing, recreation, and religious ceremonies. Tanker trucks frequently leak contents on roads, and, in some cases, drive to remote areas to dump their contents rather than taking them to a distant disposal facility. Radioactive filters have been illegally dumped along roadsides, in fields, and in warehouses. In some cases, the serial numbers have been scratched off, presumably to keep the filters from being traced back to the generator or transporter. The filters present a particularly attractive danger to children because they look like nets that can be used to fish or build play forts.

Energy exploration and extraction operations can require millions of gallons of water, sometimes in locales where water resources are precious. Tribal members have raised concerns that aquifers are being illegally tapped to supply water for some operators. If that is the case, the United States has an obligation to defend the tribes’ water rights from illegal depletion.

Civil and criminal enforcement efforts have been hampered by a lack of resources and the remote nature of these areas of Indian Country. The nearest federal investigators are often hours away, tribal police forces are severely understaffed, and state governments typically lack the authority to regulate environmental violations on the reservation.

### **Justification**

As the United States continues to develop its natural resources, Indian Country will continue to occupy a unique intersection of the nation’s energy, climate change, and environmental justice policies. Federal and tribal agencies alike will face serious enforcement challenges. Development of energy and other natural resources will continue to have a significant impact on tribes, tribal land, and tribal people for the foreseeable future. The current lack of fiscal resources to properly develop enforcement actions on tribal lands may ultimately lead to environmental justice questions as tribal communities bear a disproportionately negative



impact of the nation's energy policy. Tribal communities may see their land and natural resources degraded and destroyed because the tribal governments lack the capacity to create and implement effective environmental regulatory structures, and the federal government lacks the resources to enforce the federal environmental regulations already in place.

By working with EPA and other federal agencies, ENRD will provide legal and technical expertise to develop and litigate cases to address environmental violations in Indian Country. To effectively accomplish this objective, the Division estimates that it will require the services of 4 new attorneys, plus approximately \$1.1 million in funding for contract litigation support and expert consultant services. We will need to retain the services of expert consultants to assist in collecting and/or interpreting air-emission and water-quality data to develop civil and criminal cases for potential violations of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. Specifically, we expect to hire hydrologic experts to assess the impact of water depletion and water quality degradation, to fulfill the United States' trust obligation to protect tribal water rights. And we will require extensive analytical as well as data and document management services to effectively track and manage relevant environmental violations in Indian Country.

### **Impact on Performance**

Successful ENRD enforcement of environmental laws is a critical step in achieving the Justice Department's Strategic Goal Three: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels; and, more specifically, Strategic Objective 3.8: Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent coordinated policies, activities, and litigation. The Improving Environmental Enforcement in Indian Country initiative enhances a critical aspect of the Department's long-standing role in enforcing and upholding the federal laws that preserve the environment. This enhancement will further environmental law enforcement and prosecutions, addressing the threats to human health on tribal lands and leading to safer and more secure native communities. Existing performance measures will track progress for the proposed increase and will likely include a revision of targets. The requested budget enhancement supports the Attorney General's priority goal and 2017 Funding Priority to protect the most vulnerable members of society by addressing air and water pollution and threats to human health and the environment in Indian Country.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	0	0	0	0	0

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys (0905)	\$169	4	\$372	\$330
<b>Total Personnel</b>	<b>\$169</b>	<b>4</b>	<b>\$372</b>	<b>\$330</b>

**Non-Personnel Increase Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)
Automated Litigation Support and Contractor Support			\$1,128	\$0
<b>Total Non- Personnel</b>			<b>\$1,128</b>	<b>\$0</b>

**Total Request for this Item**

	Pos	Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	0	0	0	0	0	0	\$0
Increases	4	4	2	\$372	\$1,128	\$1,500	\$330
<b>Grand Total</b>	<b>4</b>	<b>4</b>	<b>2</b>	<b>\$372</b>	<b>\$1,128</b>	<b>\$1,500</b>	<b>\$330</b>



**B. Worker Protection Initiative**

<b>Item Name:</b>	<b>Enhancing the Safety of America's Workforce</b>
<b>AG Funding Priorities:</b>	Protecting vulnerable members of society
<b>Strategic Goal:</b>	<u>Strategic Goal II</u> : Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.
<b>Strategic Objective:</b>	<u>Strategic Objective 2.4</u> : Investigate and prosecute corruption, economic crimes, and transnational organized crime.
<b>Budget Decision Unit(s):</b>	Environment and Natural Resources Division
<b>Organizational Program:</b>	<i>Environmental Crimes Section (ECS)</i> <i>Environmental Enforcement (EES)</i> <i>Law and Policy Section (LPS)</i>
<b>Program Increase:</b>	<b>Positions <u>6</u>, Atty <u>3</u>, FTE <u>3</u>, Dollars <u>\$1,000,000</u></b>

**Description of the Item**

**ENRD is requesting \$1,000,000, including 3 attorney positions and 3 FTEs, to support increased enforcement of worker protection statutes in partnership with the Department of Labor.**

According to the Bureau of Labor Statistics, since the U.S. economy began its recovery from the recent recession (late 2010), domestic businesses have added over 11,000,000 jobs. With the increased number of Americans in the workplace over a relatively short period of time, the potential for occupational hazards (injuries and fatalities), has increased accordingly. And as jobs continue to be created – as the economy continues to grow – the Department of Justice is committed to fairly and thoroughly upholding the Nation's important worker protection laws and ensuring every American's right to a safe workplace.

Currently, an average day in the United States is marked by 13 workplace fatalities, nearly 150 deaths from occupational diseases, and about 9,000 nonfatal injuries and illnesses. As our infrastructure ages, the number of workplace fires and explosions is rising. Our burgeoning oil and gas extraction industry has a fatality rate of 24.2 deaths for every 100,000 full-time workers – higher than any other industry. The Occupational Safety and Health Act of 1970 ("OSH Act") provides criminal sanctions for only three types of conduct: (1) willfully violating a specific standard, rule, or order and thus causing the death of an employee; (2) giving advance notice of an inspection; and (3) making false statements in a document filed or



maintained under the Act. Each of these is a misdemeanor punishable by a fine of no more than \$10,000 and/or imprisonment for no more than 6 months.

There is a decided overlap between many of the statutes currently enforced by ENRD and worker safety as occupational safety violations often involve the mishandling of hazardous wastes, unlawful discharges of regulated toxic or harmful substances, or violations of the Risk Management Program (chemical facility regulations overseen by EPA, identical to Process Safety Management regulations overseen by OSHA). Moreover, the three major environmental statutes administered by ENRD each contain a knowing endangerment provision. Thus far, every conviction for knowing endangerment has involved criminal conduct on a work site.

Accordingly, to increase the frequency and effectiveness of criminal prosecutions of worker-safety violations, ENRD has been promoting the prosecution of other serious offenses that often occur in association with OSH Act violations – including false statements, obstruction of justice, witness tampering, conspiracy, and environmental and endangerment crimes. With penalties ranging from 5 to 20 years' incarceration, plus significant fines, these felony provisions are much more effective deterrents. In the course of developing this enforcement priority, ENRD has developed very good relations with the agency (the Department of Labor) that oversees this statute, leading to a productive partnership.

### **Justification**

The OSH Act codifies the right to a safe workplace for millions of American workers including those in many highly-regulated industries fraught with danger. Proper oversight of the OSH Act entails the development of an enforcement regime within the Environment and Natural Resources Division. This will require:

- (1) Building core competency among the Division and U.S. Attorney's Offices, enabling our attorneys to effectively litigate and offer guidance to client agencies regarding enforcement of the OSH Act and its attendant regulatory scheme. This will include:
  - Creating legal resources, including training manuals and toolkits, to assist attorneys in case development.
  - Conducting outreach to the federal legal community through briefings of the Environmental Crimes Policy Committee, legal courses at the National Advocacy Center, and other trainings.
  - Providing legal education through substantive articles in the U.S. Attorney's Bulletin, the Environmental Crimes Manual, and other resources.
  - Routinely engaging with the U.S. Attorney community and agency investigators on new legal and regulatory developments.
- (2) Building competency among Department of Labor personnel to sensitize them to enforcement options. This will involve similar steps as in (1) above for agency counsel, but will also require training inspectors and investigators at the regional level.



- (3) Coordinating with the Department of Labor to offer guidance and to develop enforcement plans that will more strategically employ limited federal resources. This will include:
- Regularly meeting to discuss long-term enforcement needs and referral mechanisms under the OSH Act.
  - Establishing points of contact to engage quarterly, in coordination with law enforcement partners.
  - Engaging in regularized docket reviews with agency personnel to identify worker safety matters that should be further investigated.
- (4) Participating in the development of policy and legislation in the worker safety arena.
- (5) Handling, assisting with, and monitoring civil and criminal litigation. This will include:
- Coordinating enforcement efforts that span across multiple judicial districts.
  - Partnering with federal law enforcement and the federal legal community in initial case developments, investigations, and all other litigation activities in criminal and civil enforcement cases.
  - Tracking, coordinating and supervising enforcement of worker protection statutes nationwide.

These activities are all integral to the development of a long-term enforcement program in this area, but they require resources by way of new attorney hires and support staff, as well as litigation support. ENRD seeks a budget enhancement totaling \$1.0 million to create deterrence with regard to worker safety where little currently exists.

### **Impact on Performance**

Successful ENRD enforcement of worker protection laws is a critical step in achieving the Justice Department's Strategic Goal Two: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; and, more specifically, Strategic Objective 2.4: Investigate and prosecute corruption, economic crimes, and transnational organized crime. The Division recognizes the importance of remaining vigilant when it comes to supporting and protecting vulnerable members of society such as workers and the value in enforcing laws as a means to deter behaviors that endanger them. The requested budget enhancement also supports one of the Attorney General's priority goals—protecting vulnerable Americans. Existing performance measures will track progress for the proposed increase.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	\$0	0	0	0	\$0

Personnel Increase Cost Summary

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys (0905)	\$169	3	\$279	\$248
Paralegals (950)	\$87	2	\$99	\$82
Clerical (301/986)	\$68	1	\$37	\$30
<b>Total Personnel</b>		6	\$416	\$360

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Automated Litigation Support and Contractor Support			\$584	\$0
<b>Total Non- Personnel</b>			\$584	\$0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	\$0
Increases	6	3	3	\$416	\$584	\$1,000	\$360
<b>Grand Total</b>	6	3	3	\$416	\$584	\$1,000	\$360



### C. Animal Welfare Initiative

Item Name:	Ensuring the Welfare of Animals in the United States
AG Funding Priorities:	Enhancing Public Safety
Strategic Goal:	<u>Strategic Goal II</u> : Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.
Strategic Objective:	<u>Strategic Objective 2.4</u> : Investigate and prosecute corruption, economic crimes, and transnational organized crime.
Budget Decision Unit(s):	Environment and Natural Resources Division
Organizational Program:	<i>Environmental Crimes Section (ECS)</i> <i>Wildlife and Marine Resources Section (WMRS)</i> <i>Law and Policy Section (LPS)</i>
Program Increase:	Positions <u>3</u> , Atty <u>2</u> , FTE <u>2</u> , Dollars <u>\$1,000,000</u>

#### Description of the Item

ENRD is requesting \$1,000,000, including 2 attorney positions and 2 FTEs, to support the Division's efforts to develop its new animal welfare enforcement program, following a recent transfer of enforcement authorities to the Division by Department leadership.

The prevention of animal cruelty has a long history in American law, dating back to the early colonial era. At the federal level, Congress has repeatedly made clear that ensuring the humane treatment of animals – whether by a zoo, commercial breeder, horse show, laboratory, or even a slaughterhouse – is a national policy. This federal policy carries with it enforcement responsibilities, as there are a number of federal statutes that impose criminal and civil penalties for animal welfare violations. These laws include the Animal Welfare Act, 7 U.S.C. §§ 2131-2159, the Animal Fighting Venture Prohibition Act, 7 U.S.C. § 2156, 18 U.S.C. § 49, the Horse Protection Act, 15 U.S.C. §§ 1821-1831, the Humane Methods of Livestock Slaughter Act, 7 U.S.C. §§ 1902-1907, the 28-Hour Law, 49 U.S.C. § 80502, and the Animal Crush Video Prohibition Act, 18 U.S.C. § 48. Violations of these statutes are serious matters which often intersects with other law enforcement priorities. Some animal welfare offenses, such as dog-fighting, are committed by highly organized interstate criminal enterprises which attract an array of other illegal activities including drug trafficking, gun running and gang violence, all of which threaten public safety. Law enforcement agents have found young children being exposed to the brutality of animal fighting, which prompted Congress in 2014 to not only make it a crime for



anyone to attend an animal fight, but a felony to bring a minor to the fight. Although there is increasing awareness of the serious criminal nature of this blood sport, reported estimates reveal that there are over 40,000 active professional dog fighters in the United States, and that dogfighting remains a highly sophisticated and subversive crime.

Other animal welfare offenses, such as the creation and distribution of obscene “animal crush” videos, not only trigger a compelling federal interest in preventing intentional acts of extreme cruelty, but also invoke significant concerns regarding interpersonal abuse and violent offenders. Animal crush videos involve the literal torture and killing of animals on camera – acts that are universally abhorrent but remain difficult to detect and prosecute at the local level. In 2010, due to the growing underground market for the creation and sale of such videos, Congress criminalized the creation and distribution of animal crush videos, making the crime a seven-year-felony. Not surprisingly, offenders in such cases have also been deemed a danger to the community.

The issue of animal welfare enforcement also arises in more prominent and large-scale commercial settings. For example, violations of the Horse Protection Act (including deliberate injury to horses to improve their competitive gait) remain commonplace within the horse show industry. In the September 2012 Tennessee Walking Horse National Celebration – the industry’s largest annual exhibition – nearly ten percent of the horses entered were found to be in violation of the federal statute. Similarly, as a recent letter from Senators Feinstein and Durbin to the Departments of Justice and Agriculture noted, there continue to be egregious and repetitive violators under the Animal Welfare Act by airline carriers, commercial dog breeders, exhibitors, and institutional actors.

Although the problem of animal cruelty is often perceived as a diffuse local issue, the federal animal welfare laws discussed above reflect a cohesive national enforcement policy aimed at protecting vulnerable populations and promoting the integrity of the justice system. The Department has taken a leadership role in this arena. One example is our effort to combat underground dog fighting schemes. Over the last seven years, the Department has charged over 250 defendants in illegal animal fighting ventures, and in 2014 alone, DOJ pursued ten dog fighting cases and charged 49 defendants – marking a significant upswing in federal enforcement.

The Department has also made long-term structural changes to improve federal coordination and enforcement on this issue. Last year, FBI Director James Comey announced a historic change in the identification and reporting of animal cruelty crimes. For the first time, rather than being categorized as miscellaneous offenses, animal cruelty crimes will be distinctly classified in the National Incident-Based Reporting System, enabling law enforcement and others to better understand and respond to these crimes. And, in October 2014, under the leadership of Associate Attorney General Tony West, Acting Associate Attorney General Stuart Delery, and the Attorney General’s Advisory Committee, the Department revised the U.S. Attorneys’ Manual to add the six aforementioned federal animal welfare laws to the Environment and Natural Resources Division (ENRD)’s enforcement portfolio. This change was made to fill a longstanding gap in the Department’s enforcement efforts, where traditionally there was no centralized body that had responsibility for tracking and coordinating litigation, facilitating



training, and developing enforcement policy in this specialized area. The U.S. Attorneys' Offices, federal investigative agencies, and state and local law enforcement entities supported the designation of a centralized component with coordinating responsibility for animal welfare enforcement, to complement the enforcement efforts of the 94 U.S. Attorney's Offices, work closely with the Department of Agriculture and other investigatory agencies, and to develop more effective inter-district investigatory and enforcement responses.

### **Justification**

The new suite of animal welfare statutes represents a welcome but significant addition to ENRD's enforcement purview. To fully integrate this new area of authority into the long-term work of the Division, ENRD will need to accomplish a number of goals, including building capacity among the federal law enforcement and legal communities. We will have to create training programs and toolkits for our attorneys and offer guidance to client agencies regarding enforcement of the six statutes. We will conduct outreach to legal partners within the Department of Justice and at partner federal agencies through briefings of the Environmental Crimes Policy Committee, legal courses at the National Advocacy Center, and through other legal training opportunities.

ENRD will coordinate with client agencies including the Department of Agriculture's Offices of Animal and Plant Health Inspection Services ("APHIS"), General Counsel, and Inspector General, to offer guidance, assist in training of inspectors, and to develop enforcement plans that will more strategically employ limited federal resources to:

- Meet regularly with agencies to discuss long-term enforcement needs and referral mechanisms under each of the statutes.
- Train inspectors and investigators at the regional level.
- Develop interagency workgroups to create a more efficient and coordinated enforcement response, including in areas of sentencing reform, asset forfeiture, and enhancing federal and state information sharing and law enforcement relationships.

Finally, the Division will lead nationwide efforts to handle and monitor civil and criminal litigation to:

- Coordinate enforcement efforts that span across multiple judicial districts.
- Partner with U.S. Attorney's Offices and other federal legal partners in initial case developments, investigations, and all other litigation activities in criminal and civil enforcement cases.
- Support client agency activities through the enforcement of administrative investigatory authorities, administrative and civil penalties, and injunctions when necessary.

These activities are all integral to the development of a long-term enforcement program in this area, but they require resources by way of new attorney positions and support staff, as well as the services of experts and other litigation support costs. ENRD seeks a budget



enhancement of \$1.0 million to implement the new authorities and to best deter and enforce violations of these important federal statutes.

### **Impact on Performance**

Successful ENRD enforcement of animal protection laws is a critical step in achieving the Justice Department's Strategic Goal Two: Prevent Crime, Enforce Federal Laws, and Represent the Rights and Interests of the American People; and, more specifically, Strategic Objective 2.4: Investigate and prosecute corruption, economic crimes, and transnational organized crime. The addition of several federal animal welfare laws to ENRD's enforcement portfolio was made to fill a longstanding gap in the Department's enforcement efforts, where traditionally there was no centralized body that had responsibility for tracking and coordinating litigation, facilitating training, and developing enforcement policy in this specialized area. Some animal welfare offenses, such as dog-fighting, are committed by highly organized interstate criminal enterprises which attract an array of other illegal activities including drug trafficking, gun running and gang violence, all of which threaten public safety. This initiative also supports the Attorney General's 2017 Funding Priority of enhancing public safety. Existing performance measures will track progress for the proposed increase.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	0	0	0	0	\$0	0	0	0	\$0

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys (0905)	\$169	2	\$186	\$165
Paralegals (950)	\$87	1	\$50	\$41
<b>Total Personnel</b>		3	\$236	\$206

**Non-Personnel Increase Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)
Automated Litigation Support and Contractor Support			\$764	\$0
<b>Total Non-Personnel</b>			\$764	\$0

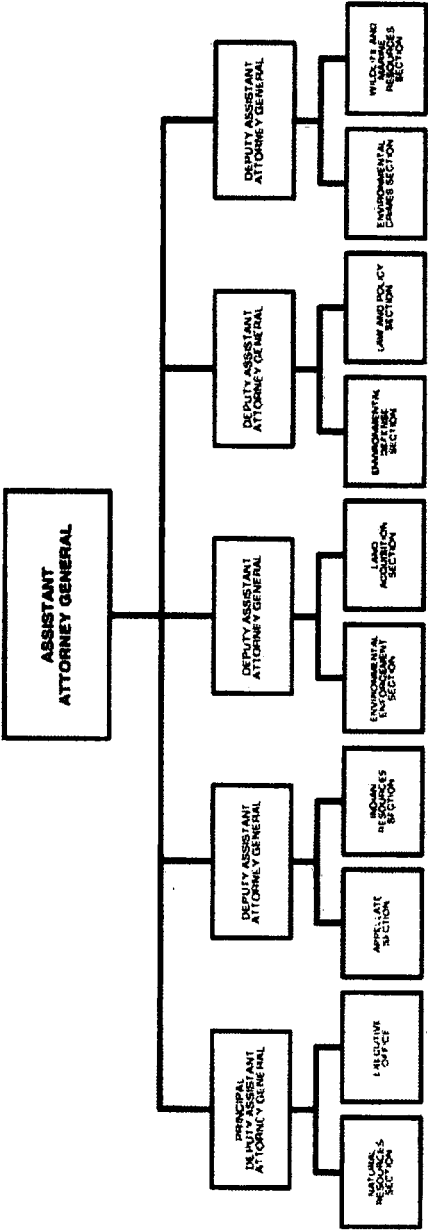
**Total Request for this Item**

	Pos	Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	0	0	0	\$0	\$0	\$0	\$0
Increases	3	2	2	\$236	\$764	\$1,000	\$206
<b>Grand Total</b>	3	2	2	\$236	\$764	\$1,000	\$206



A. Organization Chart

ENVIRONMENT AND NATURAL RESOURCES DIVISION



Approved by:  Date: April 26, 2010  
ERIC M. HOLDER, JR.  
Attorney General



## B. Summary of Requirements

# Summary of Requirements

## Environment & Natural Resources Division

### Salaries and Expenses

(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	537	540	110,077
Total 2015 Enacted	537	540	110,077
2016 Enacted	537	526	110,512
Base Adjustments			
Pay and Benefits	0	0	662
Domestic Rent and Facilities	0	0	7,887
Total Base Adjustments	0	0	8,549
Total Technical and Base Adjustments	0	0	8,549
2017 Current Services	537	526	119,061
Program Changes			
Increases:			
Enhancing the Safety of America's Workforce	6	3	1,000
Ensuring the Welfare of Animals in the United States	3	2	1,000
Improving Environmental Enforcement in Indian Country	4	2	1,500
Subtotal, Increases	13	7	3,500
Total Program Changes	13	7	3,500
2017 Total Request	550	533	122,561
2016 - 2017 Total Change	13	7	12,049



B. Summary of Requirements - Continued

**Summary of Requirements**  
**Environment & Natural Resources Division**  
**Salaries and Expenses**  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Environment and Natural Resources	537	540	110,077	537	526	110,512	0	0	8,549	537	526	119,061
Total Direct	537	540	110,077	537	526	110,512	0	0	8,549	537	526	119,061
Balance Rescission			0			0			0			0
Total Direct with Rescission			110,077			110,512			8,549			119,061
Reimbursable FTE		81			115			0			115	
Total Direct and Reimb. FTE		621			641			0			641	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
Grand Total, FTE		621			641			0			641	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Environment and Natural Resources	13	7	3,500	0	0	0	550	533	122,561
Total Direct	13	7	3,500	0	0	0	550	533	122,561
Balance Rescission			0			0			0
Total Direct with Rescission			3,500			0			122,561
Reimbursable FTE		0			0			115	
Total Direct and Reimb. FTE		7			0			648	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		7			0			648	



C. FY 2016 Program Changes by Decision Unit

FY 2017 Program Increases/Offsets by Decision Unit

Environment & Natural Resources Division

Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Environment and Natural Resources			Total Increases		
		Direct Pos.	Agt./Atty.	Est. FTE Amount	Direct Pos.	Agt./Atty.	Est. FTE Amount
Enhancing the Safety of America's Workforce	p. 36	6	3	1,000	6	3	1,000
Ensuring the Welfare of Animals in the United States	p. 40	3	2	1,000	3	2	1,000
Improving Environmental Enforcement in Indian Country	p. 44	4	4	1,500	4	4	1,500
Total Program Increases		13	9	3,500	13	9	3,500



D. Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal and Objective

Environment & Natural Resources Division

Salaries and Expenses  
(Dollars in thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Current		FY 2017 Increases		FY 2017 Offsets		FY 2017 Total	
	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>												
2.6 Protect the federal fisc and defend the interests of the United States	601	99,429	601	99,864	601	107,473	5	2,000	0	0	606	109,473
Subtotal, Goal 2	601	99,429	601	99,864	601	107,473	5	2,000	0	0	606	109,473
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>												
3.8 Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.	40	10,648	40	10,648	40	11,588	2	1,500	0	0	42	13,088
Subtotal, Goal 3	40	10,648	40	10,648	40	11,588	2	1,500	0	0	42	13,088
<b>TOTAL</b>	<b>641</b>	<b>110,077</b>	<b>641</b>	<b>110,512</b>	<b>641</b>	<b>119,061</b>	<b>7</b>	<b>3,500</b>	<b>0</b>	<b>0</b>	<b>648</b>	<b>122,561</b>



# E. Justification for Base Adjustments

## Justifications for Technical and Base Adjustments Environment & Natural Resources Division Salaries and Expenses (Dollars in Thousands)

	Direct	Estimate	Amount
Pay and Benefits	Pos.	FTE	
1 2017 Pay Rates - 1.6%	0	0	814
This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested, \$914,000, represents the pay amount for 3/4 of the fiscal year plus appropriate benefits.			
2 Anticipation of 2018 Pay Rates	0	0	244
The pay rates for the first quarter amounts (October through December) of the 2016 pay increase are included in the 2016 President's Budget. The amount requested, \$244,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits.			
3 Changes in Compensable Days	0	0	-502
The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$82,144,000 and applicable benefits \$19,827,000 by 282 compensable days.			
4 Employees Compensation Fund	0	0	-19
The request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employees Compensation Act.			
5 Health Insurance	0	0	134
Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.1 percent. Applied against the 2016 estimate of \$4,319,000, the additional amount required is \$134,000.			
6 Retirement	0	0	91
Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$91,000 is necessary to meet our increased retirement obligations as a result of this conversion.			
Subtotal, Pay and Benefits	0	0	882
Domestic Rent and Facilities			
1 GSA Rent	0	0	-7
GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested amount is a decrease of \$7,000. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.			
2 Guard Services	0	0	25
The request is for the Department of Homeland Security (DHS) Federal Protective Service charges. Justice Protective Service charges and other security services across the country. The requested increase of \$25,000 is required to meet these commitments.			
3 Moves - FY 2017	0	0	7,889
GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.			
Subtotal, Domestic Rent and Facilities	0	0	7,887
TOTAL DIRECT TECHNICAL AND BASE ADJUSTMENTS	0	0	8,648

Exhibit E



**Crosswalk of 2015 Availability**  
Environment & Natural Resources Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			Reprogramming/Transfers			Carryover	Recoveries /Refunds Amount	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount			Direct Pos.	Actual FTE	Amount
Environment and Natural Resources	537	540	110,077	0	0	2,448	2,391	0	537	540	114,916
<b>Total Direct</b>	<b>537</b>	<b>540</b>	<b>110,077</b>	<b>0</b>	<b>0</b>	<b>2,448</b>	<b>2,391</b>	<b>0</b>	<b>537</b>	<b>540</b>	<b>114,916</b>
Balance Rescission			0			0	0	-142			-142
Total Direct with Rescission			110,077			2,448	2,391	-142			114,774
Reimbursable FTE		81			0					81	
Total Direct and Reimb. FTE		621			0					621	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		621			0					621	



**Crosswalk of 2016 Availability**  
**Environment & Natural Resources Division**  
**Salaries and Expenses**  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries /Refunds		FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Amount		Direct Pos.	Est. FTE	Amount
Environment and Natural Resources	537	526	110,512	0	0	0	3	0	0	0	537	526	110,515
<b>Total Direct</b>	<b>537</b>	<b>526</b>	<b>110,512</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>537</b>	<b>526</b>	<b>110,515</b>
Balance Rescission			0				0	0	0	0			0
Total Direct with Rescission			110,512				3	0	0	0			110,515
Reimbursable FTE		115			0							115	
Total Direct and Reimb. FTE		641			0							641	
Other FTE:													
LEAP FTE		0			0							0	
Overtime		0			0							0	
<b>Grand Total, FTE</b>		<b>641</b>			<b>0</b>							<b>641</b>	



## H. Reimbursable Resources

**Summary of Reimbursable Resources**  
 Environment & Natural Resources Division  
 Salaries and Expenses  
 (Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Department of Agriculture	0	0	0	0	0	118	0	0	118	0	0	0
Department of Commerce	0	0	14	0	0	14	0	0	14	0	0	0
Department of Defense	0	0	651	0	0	1,873	0	0	1,873	0	0	0
Department of Energy	0	0	17	0	0	315	0	0	315	0	0	0
Department of Health and Human Services	0	0	5,800	0	0	3,100	0	0	3,100	0	0	0
Department of Homeland Security	0	0	66	0	0	600	0	0	600	0	0	0
Department of Interior	0	0	3,918	0	0	5,730	0	0	5,730	0	0	0
Department of Justice	0	0	24,888	0	0	28,000	0	0	28,000	0	0	0
Department of State	0	0	370	0	0	500	0	0	500	0	0	0
Department of Treasury	0	0	0	0	0	10	0	0	10	0	0	0
Environmental Protection Agency	81	81	23,114	115	115	25,970	115	115	25,970	0	0	0
Federal Trade Commission	0	0	2,141	0	0	1,200	0	0	1,200	0	0	0
Securities and Exchange Commission	0	0	1,510	0	0	17,070	0	0	17,070	0	0	0
All Other Sources	0	0	389	0	0	500	0	0	500	0	0	0
<b>Budgetary Resources</b>	<b>81</b>	<b>81</b>	<b>62,878</b>	<b>115</b>	<b>115</b>	<b>85,000</b>	<b>115</b>	<b>115</b>	<b>85,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Environment and Natural Resources	81	81	62,878	115	115	85,000	115	115	85,000	0	0	0
<b>Budgetary Resources</b>	<b>81</b>	<b>81</b>	<b>62,878</b>	<b>115</b>	<b>115</b>	<b>85,000</b>	<b>115</b>	<b>115</b>	<b>85,000</b>	<b>0</b>	<b>0</b>	<b>0</b>



## I. Detail of Permanent Positions by Category

## Detail of Permanent Positions by Category

Environment & Natural Resources Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request			Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	Total Direct Pos.	
Security Specialists (080)	1	0	1	0	0	0	0	1	0
Personnel Management (0200-0280)	5	2	5	2	0	0	0	5	2
Clerical and Office Services (0300-0399)	52	20	52	20	0	1	0	53	20
Accounting and Budget (500-599)	4	1	4	1	0	0	0	4	1
Paralegals / Other Law (900-998)	88	19	88	19	0	0	0	88	19
Attorneys (905)	370	69	370	69	0	9	0	379	69
Paralegal Specialists (0950)	0	0	0	0	0	3	0	3	0
Business & Industry (1100-1199)	3	1	3	1	0	0	0	3	1
Information Technology Mgmt (2210-2299)	14	3	14	3	0	0	0	14	3
<b>Total</b>	<b>537</b>	<b>115</b>	<b>537</b>	<b>115</b>	<b>0</b>	<b>13</b>	<b>0</b>	<b>550</b>	<b>115</b>
Headquarters Washington D.C.	460	99	460	99	0	13	0	473	99
US Fields	77	16	77	16	0	0	0	77	16
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>537</b>	<b>115</b>	<b>537</b>	<b>115</b>	<b>0</b>	<b>13</b>	<b>0</b>	<b>550</b>	<b>115</b>



J. Financial Analysis of Program Changes

Financial Analysis of Program Changes

Environment & Natural Resources Division

Salaries and Expenses

(Dollars in Thousands)

Grades	Environment and Natural Resources			Total Program Changes		
	Program Increases		Direct Pos.	Program Decreases		Direct Pos.
	Amount	Amount		Amount	Amount	
GS-14	9	981	0	0	9	981
GS-9	3	162	0	0	3	162
GS-7	1	44	0	0	1	44
Total Positions and Annual Amount	13	1,187	0	0	13	1,187
Lapse (-)	-6	-593	0	0	-6	-593
11.5 - Other personnel compensation		0		0		0
Total FTEs and Personnel Compensation	7	594	0	0	7	594
12.1 - Civilian personnel benefits		173		0		173
21.0 - Travel and transportation of persons		21		0		21
22.0 - Transportation of things		2		0		2
23.3 - Communications, utilities, and miscellaneous charges		18		0		18
25.2 - Other services from non-federal sources		2,493		0		2,493
25.3 - Other goods and services from federal sources		48		0		48
26.0 - Supplies and materials		3		0		3
31.0 - Equipment		148		0		148
Total Program Change Requests	7	3,500	0	0	7	3,500



## K. Summary of Requirements by Object Class

## Summary of Requirements by Object Class

Environment &amp; Natural Resources Division

Salaries and Expenses

(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act.	Amount	Direct	FTE	Direct	FTE	Amount	FTE
11.1 - Full-time permanent	540	51,764	526	533	57,272	7	1,031	
11.3 - Other than full-time permanent	0	6,645	0	0	4,058	0	0	
11.5 - Other personnel compensation	0	899	0	0	744	0	0	
Overtime	0	0	0	0	0	0	0	
Other Compensation	0	0	0	0	0	0	0	
11.8 - Special personal services payments	0	2,524	0	0	281	0	0	
<b>Total</b>	<b>540</b>	<b>61,832</b>	<b>526</b>	<b>533</b>	<b>62,355</b>	<b>7</b>	<b>1,031</b>	
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		20,545			22,090	0	398	
21.0 - Travel and transportation of persons		2,484			2,289	0	21	
22.0 - Transportation of things		262			316	0	2	
23.1 - Rental payments to GSA		12,731			12,391	0	-7	
23.3 - Communications, utilities, and miscellaneous charges		1,196			1,238	0	18	
24.0 - Printing and reproduction		103			92	0	0	
25.1 - Advisory and assistance services		-908			527	0	0	
25.2 - Other services from non-federal sources		10,917			6,608	0	2,493	
25.3 - Other goods and services from federal sources		4,423			12,701	0	7,939	
26.0 - Supplies and materials		344			352	0	3	
31.0 - Equipment		632			1,500	0	148	
41.0 - Grants, subsidies, and contributions		0			0	0	0	
42.0 - Insurance claims and indemnities		0			97	0	0	
<b>Total Obligations</b>		<b>114,561</b>			<b>110,515</b>		<b>122,561</b>	<b>12,046</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0			-3	0	3	
Transfers/Reprogramming		-2,339			0	0	0	
Recoveries/Refunds		-2,500			0	0	0	
Balance Rescission		142			0	0	0	
Unobligated End-of-Year, Available		3			0	0	0	
Unobligated End-of-Year, Expiring		210			0	0	0	
<b>Total Direct Requirements</b>		<b>110,077</b>			<b>110,512</b>		<b>122,561</b>	<b>12,049</b>
Reimbursable FTE	81		115	115				0
Full-Time Permanent								0



*FY 2017*  
**PERFORMANCE  
BUDGET**

*Office of Legal Counsel  
Congressional Submission*



THE UNITED STATES  
DEPARTMENT *of* JUSTICE



## Table of Contents

	Page No.
<b>I. Overview.....</b>	<b>2</b>
<b>II. Summary of Program Changes.....</b>	<b>N/A</b>
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	<b>N/A</b>
<b>IV. Program Activity Justification.....</b>	<b>5</b>
A. Office of Legal Counsel	
1. Program Description	
2. Performance Tables	
3. Performance, Resources, and Strategies	
<b>V. Program Increase by Item.....</b>	<b>N/A</b>
<b>VI. Program Offsets by Item.....</b>	<b>N/A</b>
<b>VII. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	
M. Senior Executive Service Reporting – Not Applicable	



## **I. Overview for the Office of Legal Counsel**

### **Introduction**

In FY 2017, the Office of Legal Counsel (OLC) requests a total of \$8,015,000, 33 positions (of which 27 are attorneys), and 33 FTEs.

With the requested FY 2017 resources, OLC will be able to continue to provide top-quality legal advice on matters related to national security, civil rights, crime fighting programs, and legislative and regulatory initiatives, as well as a range of other legal issues concerning constitutional, statutory, and regulatory authority. Although specifically included only under Strategic Goal II (“Enforce Federal Laws and Represent the Rights and Interests of the American People”), OLC is involved in every aspect of the Department’s Strategic Plan. OLC has issued opinions or otherwise rendered legal advice touching on virtually every aspect of the Department’s overall work and mission.

### **Issues, Outcomes and Strategies**

OLC’s mission as the Department confronts national security and intelligence challenges, continues vigorous federal civil rights enforcement, and advises Executive Branch departments and agencies in promoting the recovery from the economic crisis.

OLC is headed by an Assistant Attorney General who is appointed by the President and confirmed by the Senate. The Office provides formal opinions and informal advice in response to requests from the Counsel to the President, the various Departments and Agencies of the Executive Branch, and offices within the Department, including the offices of the Attorney General and Deputy Attorney General. Such requests frequently deal with legal issues about which two or more agencies are in disagreement.

Because formal Attorney General Opinions, which OLC would draft, are so rare, requests for opinions typically result in the preparation of legal opinions signed by OLC’s Assistant Attorney General or one of the Office’s Deputies. Opinions are based upon the research of one or more of the Office’s staff attorneys and review by at least two Deputies. OLC has already published 50 of its opinions issued in this Administration. Additionally OLC provides informal legal advice on hundreds of matters each year.

The opinions and legal advice cover constitutional, statutory, and regulatory questions from a wide range of fields, including national security, criminal law, civil rights, fiscal law, and appointment and removal authorities. OLC gives critical advice on how the Executive Branch organizes itself and carries out its missions.

OLC also reviews hundreds of pieces of pending legislation annually for constitutionality and reviews all proposed Executive Orders and proclamations, as well as proposed regulations and Orders of the Attorney General, for form and legality. Finally, there continues to be an increase in congressional oversight of the activities of the Executive Branch. This in turn has resulted in a significant increase in this aspect of OLC’s separation of powers work, because OLC is the



principal office providing legal advice to the White House and Executive Branch agencies concerning their responses to congressional oversight.

Beginning in FY 2012, OLC has been working on and updating a series of Presidential Emergency Action Documents (PEADs), first prepared by OLC in 1989 and updated pursuant to presidential directive in 2008. PEADs are pre-coordinated legal documents designed to implement a Presidential decision or transmit a Presidential request when an emergency disrupts normal governmental or legislative processes. A PEAD may take the form of a Proclamation, Executive Order, or Message to Congress. The PEAD Portfolio as an entirety is classified Secret; however, after signature by the President, individual PEADs are unclassified. In coordination with the Office of Counsel to the President and the National Security Council Staff, and under presidential direction, OLC has begun a legal review of the PEADs, to ensure that each of the current 56 documents reflects current law and adequately addresses the emergencies for which it was prepared. OLC's detailed PEAD review involves original legal research, review of other agencies' legal work, and a substantial amount of legal writing and editing.

In recent years, OLC has been the subject of a large number of Freedom of Information Act requests and lawsuits, particularly concerning OLC's work in the national security area, but also including domestic affairs. This entails a significant commitment of time and effort from a team of attorneys and paralegals.

Since 1977, at the direction of the Attorney General, OLC has published selected formal opinions. Volumes covering the years 1977 through 2008 have already been issued in hardback, and preparations for additional volumes are in progress. In addition, OLC published a volume of opinions from the period 1939 until 1977, the first in a supplemental opinion series the Office intends to issue for opinions not published at the time of original issuance. Imaged copies of all these hardback opinions are available on OLC's website, and as an interim step, OLC has also published opinions from 2009 to present on its website <http://www.usdoj.gov/olc/opinions.htm> in memorandum form, pending issuance of those opinions in hardback. In addition, OLC has accelerated the timeline by which it publishes opinions on its website. Work on this effort will continue into FY 2017.

**DOJ Strategic Goal 2: Enforce Federal Laws and Represent the Rights and Interests of the American People (FY 2017 Request: \$8,015,000)**

- Objective 2.6: Protect the federal fisc and defend the interests of the United States.

**Performance Challenges**

OLC's ability to accomplish its mission depends on its ability to devote the greatest resources possible to meet the demands of an externally-driven workload.

**External Challenges:** OLC generally does not initiate any programs, nor does it have control over the volume of its work. The work results from requests for opinions and legal advice from the Counsel to the President; general counsels of OMB and other Executive Office of the President components; general counsels of Executive Branch Departments and Agencies; and the Attorney General and other Department of Justice officials. The lack of control over this



externally-driven workload has been and is likely to remain a constant challenge to OLC's mission, and is inherent in all aspects of the Office's work, including reviewing legislation, testimony, and Presidential and Attorney General documents.

**Internal Challenges:** Because it is a relatively small component, representing only a single decision unit, OLC has little flexibility in responding to unexpected surges in workload, such as those created by national security matters and the financial crisis.

### **Environmental Accountability**

In compliance with Executive Order 13423, OLC is striving to integrate environmental accountability into its strategic management plans with the inclusion of procurement governance on Sustainable Buildings, Energy Management, Transportation, Recycling, Water Management, Environmental Management Systems, Electronics Stewardship, and the reduction of Toxic and Hazardous Chemicals.

## **II. Summary of Program Changes**

N/A

## **III. Appropriations Language and Analysis of Appropriations Language**

N/A



## IV. Program Activity Justification

### A. Office of Legal Counsel

<b>Office of Legal Counsel</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2015 Enacted	33	27	7,836
2016 Enacted	33	27	7,989
Adjustments to Base and Technical Adjustments	0	0	26
2017 Current Services	33	27	8,015
2017 Program Increases	0	0	0
2017 Program Offsets	0	0	0
2017 Request	33	27	8,015
<b>Total Change 2016-2017</b>			<b>26</b>

#### 1. Program Description

Playing a major role in advising on intelligence and national security issues following September 11 events, OLC has continued to devote a significant portion of its resources to providing legal advice to the White House, the Attorney General, and other Executive Branch agencies in these areas, and this is not likely to change. The Office is also taxed by the demands placed upon it by handling the legal issues that have arisen in relation to pending legislation and regulatory initiatives, as well as the ongoing recovery from the financial crisis.

In addition to these responsibilities, OLC will continue its principal duty of assisting the Attorney General in his role as legal advisor to the President and Executive Branch agencies. OLC will also continue in FY 2017 to serve as arbiter of legal disputes within the Executive Branch, to provide general legal assistance to other components of the Department, including where litigation or proposed legislation raises constitutional issues or general issues of executive authority, and to review for form and legality all Executive Orders and Proclamations to be issued by the President, as well as all proposed Orders of the Attorney General and all regulations requiring Attorney General approval.

OLC's role in the Department's legislative program is substantial, and includes drafting extensive comments on pending legislation and testimony. OLC regularly receives legislation for review from both OMB and the Department's Office of Legislative Affairs, in addition to specific requests from other agencies and the White House; the volume is high and the deadlines usually urgent. OLC also occasionally assists in the drafting of legislation.

In addition, because of its expertise in certain areas, OLC has assumed a continuing advisory role to other Department components, including the Office of the Solicitor General, the National Security Division, and the litigating divisions, on issues relating to, among other things, constitutional rights, national security, and immigration matters.



2. Performance and Resource

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Office of Legal Counsel: 2.6 Protect the federal fisc and defend the interests of the United States.											
RESOURCES		Target		Estimate		Target		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		27	7,836	24	7,234	27	7,989		26	27	8,015
TYPE/ STRATEGIC OBJECTIVE		FY 2015		FY 2015 (as of 3/31/15)		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		27	7,836	24	7,234	27	7,989		26	27	8,015
Performance Measure: Output		1700		1700		1700				1700	
Performance Measure: Efficiency											
Performance Measure: Outcome		190		180		190				190	



PERFORMANCE MEASURE TABLE

Decision Unit: Office of Legal Counsel									
Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014	
		Actual		Actual		Actual		Actual	
Performance Measure	Provision of Legal Opinions on Constitutional questions from the President and Executive Branch	1700		1700		1700		1700	
Performance Measure	Review form and legality of all proposed Executive Orders and Proclamations to be issued by the President	180		190		190		190	
Performance Measure									
Efficiency Measure									
OUTCOME Measure									

N/A = Data unavailable  
\* Denotes inclusion in the DOJ Annual Performance Plan



### **3. Performance, Resources, and Strategies**

The Office of Legal Counsel represents a single decision unit. Given its primary mission (“assisting the Attorney General in his role as legal advisor to the President and Executive Branch agencies”), OLC is involved in every aspect of the Department’s Strategic Plan. OLC has issued opinions or otherwise rendered legal advice touching on virtually every aspect of the Department’s overall work and mission.

#### **a. Performance Plan and Report for Outcomes**

Because of the legal advisory nature of its mission and workload, OLC is not included for review in the Department’s Performance and Accountability Report (PAR). This budget submission is part of the Department’s Performance Plan since we are reporting targets through FY 2017. However, OLC does not have measures in the PAR.

#### **b. Strategies to Accomplish Outcomes**

Since September 11, 2001, OLC has had to realign its priorities in terms of workload and assignments in order to meet the variety of new challenges, while still endeavoring to meet its ongoing workload demands to the greatest extent possible with existing resources.

#### **c. Priority Goals**

OLC’s general goals for FY 2017 are as follows:

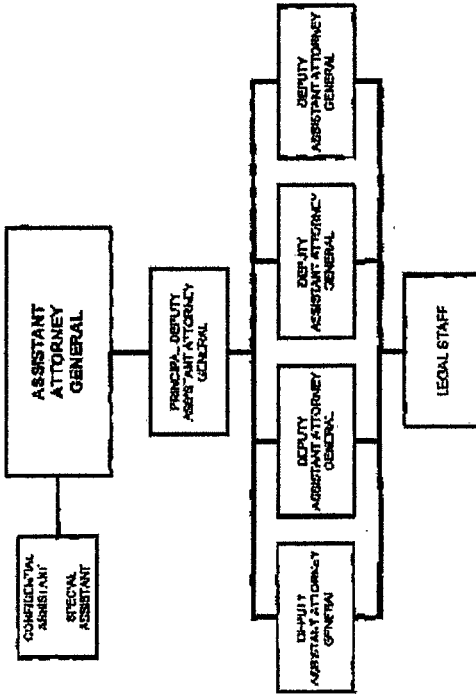
- Provide critical legal advice to the White House, the Attorney General, other components of DOJ, and other Executive Branch agencies
- Resolve intra-Executive Branch disputes over legal questions
- Advise on litigation or proposed legislation raising constitutional issues or other legal issues of general concern to the Executive Branch
- Approve for form and legality all Executive Orders, other Presidential documents, and Orders and regulations issued by the Attorney General.

**V. Program Increases by Item: N/A**

**VI. Program Offsets by Item: N/A**



## OFFICE OF LEGAL COUNSEL



\* Executive, legal and administrative support services are cross-serviced by the Office of the Solicitor General.

Approved by:

*[Signature]*  
ERIC M. HOLLER, JR.  
Attorney General

Date: AUG. 23, 2012



**Summary of Requirements**

Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request	
	Direct Pos.	Estimate FTE Amount
2015 Enacted 1/	33	25 7,836
Total 2015 Enacted	33	25 7,836
2016 Enacted	33	27 7,989
Base Adjustments		
Pay and Benefits	0	0 50
Domestic Rent and Facilities	0	0 -24
Total Base Adjustments	0	0 26
Total Technical and Base Adjustments	0	0 26
2017 Current Services	33	27 8,015
2017 Total Request	33	27 8,015
2016 - 2017 Total Change	0	0 26

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Office of Legal Counsel	33	25	7,836	33	27	7,989	0	0	26	33	27	8,015
Total Direct	33	25	7,836	33	27	7,989	0	0	26	33	27	8,015
Balance Rescission			0			0						0
Total Direct with Rescission			7,836			7,989						8,015
Reimbursable FTE		0			0				26		0	
Total Direct and Reimb. FTE		25			27						27	
Other FTE:												
LEAP		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		25			27						27	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Office of Legal Counsel	0	0	0	0	0	0	33	27	8,015
Total Direct	0	0	0	0	0	0	33	27	8,015
Balance Rescission									0
Total Direct with Rescission									0
Reimbursable FTE		0			0				8,015
Total Direct and Reimb. FTE		0			0			27	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		0			0			27	



Resources by Department of Justice Strategic Goal and Objective  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Request	Direct Amount	Reimb Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	25	7,836	27	27	7,989	27	27	8,015	0	0	0	0	0	0	0	27	8,015	0
2.6 Protect the federal fisc and defend the interests of the United States	25	7,836	27	27	7,989	27	27	8,015	0	0	0	0	0	0	0	27	8,015	0
TOTAL	25	7,836	27	27	7,989	27	27	8,015	0	0	0	0	0	0	0	27	8,015	0



# Justifications for Technical and Base Adjustments

Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 <b>2017 Pay Raise - 1.6%</b> The request provides for a proposed 1.6 percent pay raise to be effective in January 2017. The amount requested, \$74,000 represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$55,500 for pay and \$18,500 for benefits).	0	0	74
2 <b>Annualization of 2016 Pay Raise</b> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$19,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$14,250 for pay and \$4,750 for benefits).	0	0	19
3 <b>Changes in Compensable Days</b> The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$4,813 applicable benefits \$806 by 261 compensable days.	0	0	-43
<b>Subtotal, Pay and Benefits</b>	0	0	50
<b>Domestic Rent and Facilities</b>			
1 <b>GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$-25,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the cost of new space to be occupied.	0	0	-25
2 <b>Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$1,000 is required to meet these commitments.	0	0	1
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	-24
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	26



**Crosswalk of 2015 Availability**  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos	Actual FTE	Amount	Direct Pos	Actual FTE	Amount			Direct Pos	Actual FTE	Amount
Office of Legal Counsel	33	25	7,836	0	0	0	0	0	33	25	7,836
<b>Total Direct</b>	<b>33</b>	<b>25</b>	<b>7,836</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>33</b>	<b>25</b>	<b>7,836</b>
Balance Rescission											
Total Direct with Rescission			0			0	0	0			0
Reimbursable FTE			7,836			0	0	0			7,836
<b>Total Direct and Reimb. FTE</b>		<b>25</b>			<b>0</b>					<b>25</b>	
Other FTE											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>25</b>			<b>0</b>					<b>25</b>	



**Crosswalk of 2016 Availability**  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds		FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Amount		Direct Pos.	Est. FTE	Amount
Office of Legal Counsel	33	27	7,989	0	0	0	0	0	0		33	27	7,989
<b>Total Direct</b>	<b>33</b>	<b>27</b>	<b>7,989</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>		<b>33</b>	<b>27</b>	<b>7,989</b>
Balance Rescission				0	0	0							0
<b>Total Direct with Rescission</b>			<b>7,989</b>			<b>0</b>		<b>0</b>	<b>0</b>				<b>7,989</b>
Reimbursable FTE		0			0							0	
<b>Total Direct and Reimb. FTE</b>		<b>27</b>			<b>0</b>							<b>27</b>	
Other FTE:													
LEAP FTE		0			0							0	
Overtime		0			0							0	
<b>Grand Total, FTE</b>		<b>27</b>			<b>0</b>							<b>27</b>	



Detail of Permanent Positions by Category

Office of Legal Counsel  
Salaries and Expenses:  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request			
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Total Reimb. Pos.
Clerical and Office Services (0300-0399)	3	0	3	0	0	0	0	3 0
Attorneys (905)	27	0	27	0	0	0	0	27 0
Paralegal Specialist (0950)	3	0	3	0	0	0	0	3 0
Total	33	0	33	0	0	0	0	33 0
Headquarters Washington D.C.	33	0	33	0	0	0	0	33 0
US Fields	0	0	0	0	0	0	0	0 0
Foreign Field	0	0	0	0	0	0	0	0 0
Total	33	0	33	0	0	0	0	33 0



K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease Direct FTE Amount
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	
11.1 - Full-time permanent	25	2,997	27	4,642	27	4,609	0
11.3 - Other than full-time permanent	0	418	0	171	0	172	0
11.5 - Other personnel compensation	0	133	0	63	0	19	0
Overtime	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0
<b>Total</b>	<b>25</b>	<b>3,548</b>	<b>27</b>	<b>4,876</b>	<b>27</b>	<b>4,800</b>	<b>-76</b>
<b>Other Object Classes</b>							
12.1 - Civilian personnel benefits		995		1,178		1,206	0
21.0 - Travel and transportation of persons		3		6		6	0
22.0 - Transportation of things		34		39		40	0
23.1 - Rental payments to GSA		1,095		1,170		1,214	0
23.2 - Rental payments to others		50		49		49	0
23.3 - Communications, utilities, and miscellaneous charges		147		137		131	0
24.0 - Printing and reproduction		4		35		36	0
25.2 - Other services from non-federal sources		974		226		227	0
25.3 - Other goods and services from federal sources		240		144		149	0
25.6 - Medical care		2		4		4	0
25.7 - Operation and maintenance of equipment		8		9		9	0
26.0 - Supplies and materials		70		120		124	0
31.0 - Equipment		51		6		20	0
42.0 - Insurance claims and indemnities		13		0		0	0
<b>Total Obligations</b>		<b>7,234</b>		<b>7,969</b>		<b>8,015</b>	<b>0</b>
<b>Net of:</b>							
Unobligated Balance, Start-of-Year		0		0		0	0
Transfers/Reprogramming		0		0		0	0
Recoveries/Refunds		0		0		0	0
Balance Rescission		0		0		0	0
Unobligated End-of-Year, Available		0		0		0	0
Unobligated End-of-Year, Expiring		602		0		0	0
<b>Total Direct Requirements</b>		<b>7,836</b>		<b>7,969</b>		<b>8,015</b>	<b>0</b>
<b>Reimbursable FTE</b>	0		0		0		0
<b>Full-Time Permanent</b>							0

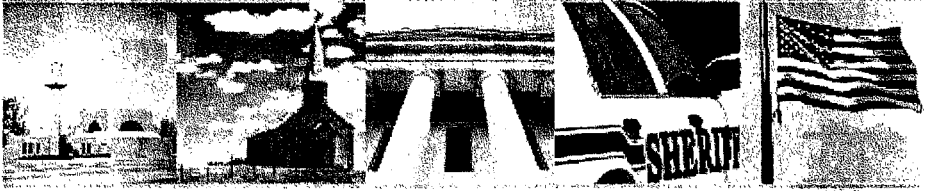


**Summary of Requirements by Grade**  
Office of Legal Counsel  
Salaries and Expenses  
(Dollars in Thousands)

Grades and Salary Ranges	2015 Enacted		2016 Enacted Continuing Resolution		2017 Request		Increase/Decrease	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
EXEC \$145,700 - 199,700	1	0	1	0	1	0	0	0
SES/SL \$119,554 - 179,700	10	0	10	0	10	0	0	0
GS-15 \$123,758 - 155,500	9	0	9	0	9	0	0	0
GS-14 \$105,211 - 136,771	4	0	4	0	4	0	0	0
GS-13 \$89,033 - 115,742	1	0	1	0	1	0	0	0
GS-12 \$74,872 - 97,333	3	0	3	0	3	0	0	0
GS-11 \$62,467 - 81,204	5	0	5	0	5	0	0	0
Total, Appropriated Positions	33	0	33	0	33	0	0	0
Average SES Salary		0		0		0		
Average GS Salary		0		0		0		
Average GS Grade		13		13		13		



U.S. Department of Justice  
Civil Rights Division



U.S. DEPARTMENT OF JUSTICE  
CIVIL RIGHTS DIVISION



**FY 2017 Performance Budget  
Congressional Submission**  
February 2016





# TABLE OF CONTENTS

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<b>I. CIVIL RIGHTS DIVISION OVERVIEW.....</b>	<b>2</b>
<b>II. SUMMARY OF PROGRAM CHANGES.....</b>	<b>21</b>
<b>III. APPROPRIATIONS LANGUAGE AND ANALYSIS OF APPROPRIATIONS LANGUAGE .....</b>	<b>21</b>
<b>IV. PROGRAM ACTIVITY JUSTIFICATION.....</b>	<b>22</b>
A. Civil Rights Division Decision Unit .....	22
1. Program Description .....	22
2. Performance and Resource Tables .....	24
3. Performance, Resources, and Strategies.....	24
B. Strategies to Accomplish Outcomes.....	33
C. Priority Goals .....	36
<b>V. PROGRAM INCREASES BY ITEM.....</b>	<b>37</b>
A. Policing and Criminal Justice – Protecting the Rights of Children, People with Disabilities, and People in Institutions.....	37
B. Protecting the Rights of Servicemembers .....	41
C. Protecting the Rights of People with Disabilities.....	44
<b>VI. APPENDIX .....</b>	<b>48</b>
<b>VII. EXHIBITS .....</b>	<b>52</b>
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Changes by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	



## I. CIVIL RIGHTS DIVISION OVERVIEW

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The Civil Rights Division (Division) at the Department of Justice (Department) protects the civil and constitutional rights of all Americans, enforcing the Constitution and federal laws of the United States in pursuit of our founding ideals – fundamental fairness, equal justice, and equal opportunity for all. Toward that end, we strive to advance three key principles.

- *Protect the most vulnerable among us* by ensuring that all in America can live free from fear of exploitation, discrimination, and violence.
- *Safeguard the fundamental infrastructure of democracy* by protecting the right to vote and access to justice, ensuring that communities have effective and democratically-accountable policing, and protecting those who protect us.
- *Expand opportunity for all people* by advancing the opportunity to learn, earn a living, live where one chooses, and worship freely in one's community.

To continue these efforts, in FY 2017 the Division respectfully requests a total of \$155,621,000 to fund 750 positions – including 625 direct full time equivalents (FTE) and 407 attorneys – to protect, defend, and advance civil rights in our nation. This request outlines the need for enhancements to protect the rights of children and people with disabilities in their interactions with the criminal justice system, as well as to prevent children's unnecessary contact with the criminal justice system, (\$2,700,000, 24 positions, 12 FTE); to defend the rights of our nation's servicemembers (\$587,000, 5 positions, 3 FTE); and to reduce technological and educational barriers for people with disabilities (\$983,000, 7 positions, 4 FTE). Electronic copies of the Department's Congressional Budget Justifications, Capital Asset Plan, and Business Case Exhibits are also available online at [www.justice.gov/02organizations/bpp.htm](http://www.justice.gov/02organizations/bpp.htm).

This budget submission strives to provide detailed information and guidance to assist Congress in evaluating the Division's FY 2017 funding request. First, this submission provides an overview of the Division's work. Second, it presents a summary of program changes. Third, it describes justifications for the various program activities. And fourth, it itemizes the different program increases with annotated tables and charts. Throughout this document, the Division illustrates its work with examples. While these examples aim to convey the impact, scope, and approach of the Division's efforts in a comprehensive manner, they do not document the entirety of its efforts.

## CIVIL RIGHTS CHALLENGES AND OPPORTUNITIES: THE UNFINISHED BUSINESS OF AMERICA

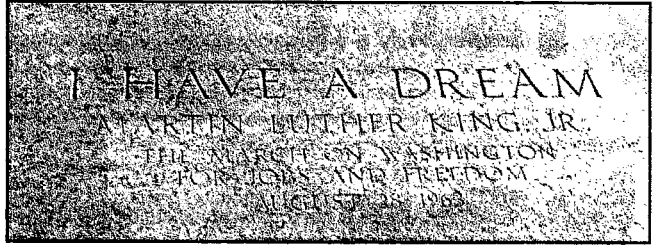


The Civil Rights Act of 1964 established landmark protections against discrimination on the basis of race, color, national origin, sex, and religion. But when President Lyndon B. Johnson signed the law more than half a century ago, he reminded the American people about the ever-evolving quest to bring our nation closer to its founding values. "Those who founded our country," he said, "knew that freedom would be secure only if each generation fought to renew and enlarge its meaning." The Civil Rights Act built the groundwork for other critical federal



civil rights statutes passed by Congress, including the Voting Rights Act of 1965, the Fair Housing Act of 1968, the Americans with Disabilities Act (ADA) of 1990, and the Shepard-Byrd Hate Crimes Prevention Act of 2009. In the Civil Rights Division, our capacity to effectively enforce these statutes, and the others described in this document, directly correlates with our country's ability – to paraphrase the words of President Johnson – to secure and reaffirm America's meaning of freedom in the 21st century.

The Division's robust caseload serves as a stark reminder that too many people and communities across America continue to face discrimination. Each year, we confront new challenges and face evolving threats to public safety. And during the last year in particular, we experienced a surging demand of cases related to policing practices.



## ❖ ENSURING DEMOCRATICALLY-ACCOUNTABLE AND CONSTITUTIONAL POLICING

Ensuring effective, constitutional, and democratically-accountable policing helps advance public safety. For that reason, the Division remains dedicated to rebuilding trust where it has eroded in community-police relations. When area residents trust the police, they become more likely to cooperate with investigations, enhancing the ability of police to solve crimes, making all of us – police officers and private citizens – safer.

### *Criminal Investigations of Officer Misconduct*

In approximately 18,000 law enforcement agencies across the country, the vast majority of law enforcement officers work tirelessly to protect the communities they serve. But when officers do violate an individual's constitutional rights, our laws provide measures to hold them accountable. From FY 2010 – FY 2015, in collaboration with U.S. Attorneys' Offices around the country, the Division has charged 404 law enforcement officers in 270 indictments for willful violations of constitutional rights. These cases cover a broad range of issues – from allegations that a police officer or corrections officer used excessive force, to allegations of sexual misconduct.

Regardless of whether or not charges result, these investigations require intensive resources. Following comprehensive and objective investigations, the Division produces detailed decision-memoranda. After reaching a decision, prosecutors and managers often help coordinate the announcement of the decision, which requires extensive planning with the victim's surviving family members, the local U.S. Attorney's Office, the FBI, other public officials, and community groups.

Careful and thorough investigations into allegations of unconstitutional conduct by police officers help maintain public confidence in law enforcement. The Division's criminal investigation into the fatal shooting of Michael Brown by Ferguson, Missouri, Police Officer Darren Wilson presents an important example. In the midst of widespread community unrest, the Division opened an independent investigation to determine whether sufficient evidence existed to prove beyond a reasonable doubt that Officer Wilson's actions willfully violated federal civil rights laws. The Division's investigation reviewed ballistic, forensic, and crime scene evidence; medical reports and autopsy reports; personnel records; audio and video recordings; and interviews with dozens of



witnesses. After an exhaustive review of all available evidence, the Division issued a public report explaining its findings that the evidence did not establish that Officer Wilson violated federal civil rights laws. Because of the Division's thoughtful and objective approach, even during a time of intense community strife and tension, the Division's investigation helped reassure many concerned community members that the Department of Justice had fairly reviewed the facts of the case.

### ***Civil Pattern-or-Practice Investigations***

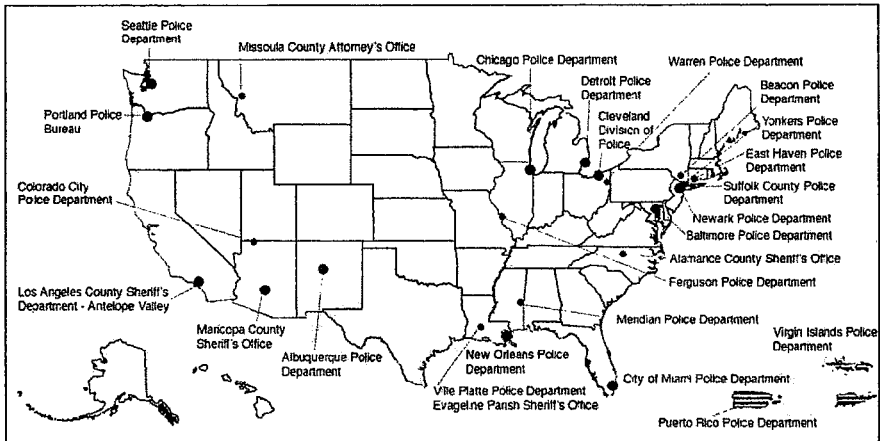
The Division also works to reform departments engaged in a pattern-or-practice of behavior that violates the Constitution or federal law. Each investigation often includes review of hundreds of pages of policies and procedures; assessment of tens of thousands of pages of incident reports; analysis of stop, arrest and other data; interviews with dozens of command and line staff; ride-alongs; community meetings; and interviews with hundreds of stakeholders.

Since the start of the administration, the Division has opened 23 investigations into police departments, including one most recently involving the Chicago Police Department. These investigations have involved agencies across the country, both large and small, and cover a range of issues, including the use of excessive force; racial, ethnic, gender, and religious discrimination; discrimination against individuals with disabilities; protected speech; and community trust and legitimacy.

The Department is currently conducting eight open investigations, including several that have resulted in findings or technical assistance letters, as listed below.

- *Findings:* Ferguson, Missouri Police Department; Miami, Florida Police Department; and Newark, New Jersey Police Department
- *Technical Assistance Letters:* Yonkers Police Department
- *Ongoing Investigations:* Chicago, Illinois Police Department; Baltimore, Maryland Police Department; Ville Platte, Louisiana Police Department; and Evangeline Parish, Louisiana Sheriff's Office.

### **Current Pattern-or-Practice Matters Pursuant to the Violent Crime Control and Law Enforcement Act**





In March 2015, the Division published a report of its findings following its pattern-or-practice investigation into the Ferguson Police Department. The report exposed a system pervaded by racial bias, demonstrating how policing and court practices disproportionately impacted African-American residents. It also highlighted the consequences of the City's decision to impose excessive fines and

## Justice Department's Report on the Ferguson Police Department

by WILSON ANDREWS, ALEXIA DESANTES and JOHN KELLER MARCH 4, 2015

In a scathing report released Wednesday, the Justice Department concluded that the Ferguson Police Department had been routinely violating the constitutional rights of its black residents.

- The New York Times (March 4, 2015)

fees on its residents, often prioritizing the collection of revenue over the protection of public safety. In several instances, we observed how even minor code violations could result in multiple arrests, jail time, and payments that

exceeded the cost of the original ticket many times over. The findings of this report helped to amplify a national conversation about policing and criminal justice reform.

Even after it announces findings, the Division continues extensive engagement with various stakeholders – including line officers, police unions, and community leaders – to help shape the remedies that it negotiates. For example, following the release of our findings letter in Ferguson, Missouri, Division attorneys met with several community groups at an open forum to better understand the reforms that area residents wanted to see in their police department and court system.

After concluding these investigations, the Division aims to negotiate innovative resolutions to address serious and systemic problems. The Division currently enforces 17 agreements with law enforcement agencies, including consent decrees in New Orleans, Louisiana; Puerto Rico; Seattle, Washington; Portland, Oregon; the Virgin Islands; East Haven, Connecticut; Warren, Ohio; Albuquerque, New Mexico; Cleveland, Ohio; and Los Angeles, California. Through strategic priority setting, the Division has selected cases and crafted remedies to address issues that will have the broadest impact both in the communities affected and across the nation.

Effective, sustainable implementation of these reforms takes years, and the Division remains actively involved to ensure the reforms take hold. Enforcement of these agreements takes up an enormous amount of the Division's resources, even with a court monitor and, at times, the assistance of the local United States Attorney's Office.

This critical enforcement work, combined with the rapid pace at which the Division has opened new matters, has translated into a significantly larger workload in recent years. Moreover, not all jurisdictions cooperate throughout the process. When this occurs, the Division must engage in complex, intensive litigation to ensure the effective implementation of reforms. Over the last few years, the Division's Special Litigation Section has been involved in more cases in litigation than at any other time in its enforcement of the pattern-or-practice provisions of the Violent Crime Control and Law Enforcement Act, including the first-ever trial against a law enforcement agency in *U.S. v. Johnson*, a case involving discrimination against Latinos. Other active litigation has included cases against the Maricopa County Sheriff's Office, the Colorado City Marshal's Office, and the Meridian Police Department. This litigation requires intensive resources.

As detailed later in this budget submission, other dimensions of the Division's work include efforts to protect some of our most vulnerable populations, including children, people with disabilities, and limited English proficient (LEP) individuals who interact with police and the justice system. When community members have negative interactions with police officers, it impedes trust and can lead to a series of devastating consequences that harm effective policing. To address these critical public safety challenges, the Division respectfully requests an enhancement in these areas.



## **CRIMINAL ENFORCEMENT: PROTECTING INDIVIDUALS FROM EXPLOITATION, DISCRIMINATION, AND VIOLENCE**

The Division's criminal enforcement program protects individuals from exploitation, discrimination, and violence through a range of efforts, including the following.

- We prosecute and prevent human trafficking – a form of modern day slavery against U.S. citizens, non-citizens, adults, and children – that involves the use of force and threats as well as coercion to compel labor, services, or commercial sex acts from victims.
- We combat hate crimes – violent and intimidating acts such as beatings, murders, or cross-burnings – that target an individual because of his or her race, color, national origin, religious beliefs, gender, gender identity, sexual orientation, or disability.
- We prosecute the small minority of law enforcement officers who abuse their positions to willfully deprive individuals of their constitutional rights by engaging in excessive force, sexual assault, illegal arrests or searches, or property theft.
- We protect the right to religious freedom by prosecuting violence against churches, synagogues, mosques, and other houses of worship.
- We investigate unsolved civil rights era homicides under the Emmett Till Unsolved Civil Rights Crime Act of 2007.

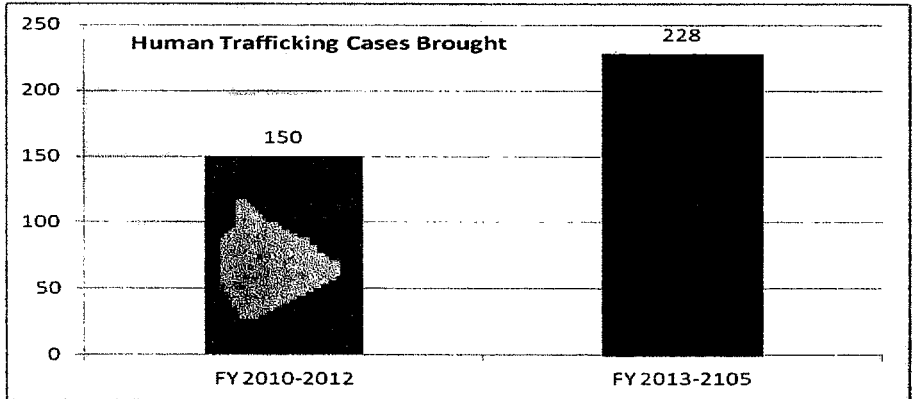
In addition to prosecuting cases in district courts, the Division also participates in litigation in the federal courts of appeals and the U.S. Supreme Court to advance and defend its criminal enforcement work.

### **❖ PROSECUTING AND PREVENTING HUMAN TRAFFICKING**

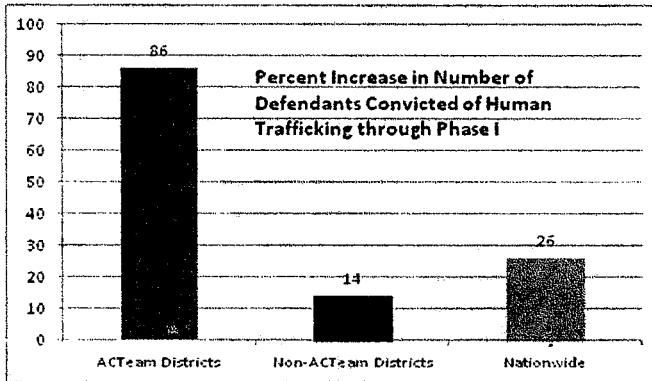
The Division plays a lead role in the Department's efforts to enforce laws against human trafficking, including both sex trafficking and forced labor. Working with U.S. Attorneys' Offices nationwide, the Division leads prosecutions of complex, multi-jurisdictional, and international cases. It also spearheads coordination initiatives to strengthen the federal law enforcement response to human trafficking crimes. In addition, the Division provides national and international expertise in cases involving forced labor; sex trafficking of adults by force, fraud, and coercion; and international sex trafficking cases.

The Division continues to bring an increasing number of human trafficking cases. In fiscal years 2013 – 2015, the Division brought 228 human trafficking cases, compared to 150 in fiscal years 2010 – 2012, marking a 52 percent increase. This increase requires vigorous, coordinated, and creative efforts to prevent crimes, protect victims, and prosecute traffickers.





Across the administration, we aim to bring an innovative, collaborative, and entrepreneurial approach to tackling this heinous crime. In partnership with the Departments of Homeland Security and Labor, the FBI, and the Executive Office of United States Attorneys, beginning in 2011, the Division helped launch the Anti-Trafficking Coordination Team (ACTeam) Initiative, an interagency effort to develop



high-impact human trafficking investigations and prosecutions.

Throughout Phase I of the Initiative, which ran from 2011 – 2013, six Phase I Pilot ACTeams in Atlanta, Georgia; El Paso, Texas; Kansas City, Missouri; Los Angeles, California; Memphis, Tennessee; and Miami, Florida formulated and implemented a coordinated, proactive, interagency federal law

enforcement strategy to combat human trafficking. In these ACTeam districts, prosecutions of forced labor, international sex trafficking, and adult sex trafficking rose even more markedly than they did nationally. For example, the number of defendants convicted rose 86 percent in ACTeam districts, compared to 14 percent in non-ACTeam districts, and 26 percent nationwide. To build on this effective program, in December 2015, the Department announced the locations for six new ACTeams to lead Phase II of the Initiative: Cleveland, Ohio; Minneapolis, Minnesota; Newark, New Jersey; Portland, Maine; Portland, Oregon; and Sacramento, California.

We also recognize that human trafficking requires coordination beyond our borders. The Division leads the U.S.-Mexico Human Trafficking Bilateral Enforcement Initiative, which has contributed significantly to protecting the rights and dignity of victims through outreach, interagency coordination, international collaboration, and capacity building in both countries. U.S. and Mexican law enforcement authorities have worked together to dismantle sex trafficking networks operating across the U.S.-Mexico border, prosecuting members of those networks and securing substantial sentences under both U.S. and Mexican law, while rescuing victims and recovering victims' children from the trafficking networks' control. This initiative has established enduring partnerships, bringing together law enforcement agencies and non-governmental organizations across international lines to vindicate the rights of dozens of sex trafficking victims.



Strategic law enforcement partnerships such as the ACTeam Initiative and the U.S.-Mexico Bilateral Human Trafficking Enforcement Initiative – combined with highly successful outreach, training, and capacity-building efforts – have substantially increased the Division’s workload related to prosecuting and preventing human trafficking. In particular, these coordination initiatives and outreach efforts have enhanced case identification capacity, generating a high volume of complex trafficking cases that often require the Division’s unique expertise and coordination among multiple districts and law enforcement agencies.

## ❖ COMBATING HATE CRIMES

Hate crimes leave a devastating effect beyond the physical injury inflicted on the victim. They reverberate through families, communities, and the entire nation, as others fear that they too could suffer criminal threats or violence simply because of what they look like, where they worship, whom they love, or whether they have a disability.

In 2009, Congress passed, and President Obama signed, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, expanding the federal definition of hate crimes, enhancing the legal toolkit available to prosecutors, and increasing the ability of federal law enforcement to support our state and local partners. This law added new federal protections against crimes based on gender, disability, gender identity, or sexual orientation. And it removed unnecessary jurisdictional obstacles that interfered with our prosecution of racially and religiously-motivated violence.

Through FY 2015, the Division has charged 68 defendants and won 43 convictions under the Shepard-Byrd Act. These cases range from indicting a defendant for firebombing a Hindu temple in New York, to prosecuting defendants for beating a Sikh cab driver in Washington State, vandalizing churches in California, and firing a gun at a synagogue in Utah.

Following heinous acts of terrorism in particular, too many Muslim Americans – and those communities perceived as Muslim – suffer a backlash of violence and discrimination. Since the 9/11 attacks, the Justice Department has investigated more than 1,000 incidents involving acts of violence, threats, assaults, vandalism, and arson targeting against Arab, Muslim, Sikh, and South-Asian Americans, as well as individuals perceived to be members of these groups, prosecuting dozens of these cases to the fullest extent of the law. And following deeply tragic events in 2015 – from San Bernardino to Paris – similar to what we saw after 9/11, community members and advocates continue to report a backlash of hate-related incidents targeting Muslim Americans, and other groups perceived as Muslim. We continue to investigate many of these incidents.



In addition to our criminal prosecutions, the Division also engages directly with local communities to combat hate violence. The Justice Department organized a series of regional trainings earlier this year in Mississippi, California, Oregon, Kansas, and Florida. We aim to train local and federal law enforcement in how to recognize, investigate and prove hate crimes; to educate communities and help



them promote public safety; and to encourage better hate crime reporting and data collection. When we bring together a diverse group of stakeholders – from different professions, backgrounds, and walks of life – we see law enforcement and community leaders commit to work together to prevent and respond more effectively to hate-motivated violence.

To combat religious discrimination, in 2016 the Division will partner with other federal agencies – including the Departments of Education, Homeland Security, and Labor; the Equal Employment Opportunity Commission (EEOC); and within the Justice Department – the FBI, Office of Justice Programs (OJP), Executive Office for United States Attorneys, and Community Relations Service (CRS) – to host a series of community roundtables and discussions. Through this initiative, Division staff will engage with individuals from across the country so that we can better understand how the scourge of religious discrimination continues to undermine opportunity.

## **CIVIL ENFORCEMENT: PROTECTING INDIVIDUALS FROM EXPLOITATION, DISCRIMINATION, AND VIOLENCE**

The Division's civil enforcement work includes extensive efforts to protect individuals in institutions from exploitation, discrimination, and violence. Much of this civil work focuses on systemic problems, such as sexual abuse of female prisoners, use of solitary confinement for inmates with mental illness, and unmet mental health needs.

**“We must change our approach and view solitary confinement as a last resort to protect public safety rather than a first response to inflict punishment.”**

*— Head of the Civil Rights Division Yanita Gupta (January 26, 2016)*

The Division's work on behalf of institutionalized individuals includes cases addressing constitutional and other legal violations that may lead to the unnecessary incarceration of children. We investigate juvenile justice, court, indigent defense, and probation systems to ensure that youth receive their due process rights – including meaningful legal representation – and do not face discrimination because of their race or disability. We ensure that school districts do not discriminate against students based on their race or disability in referring students to law enforcement or juvenile justice facilities. We also ensure that school police officers focus on public safety and not on criminalizing minor misbehavior. In addition, the Division works with local jurisdictions to create alternatives to incarceration that permit children to remain in their homes and communities, rather than in detention facilities.

## **SAFEGUARDING THE FUNDAMENTAL INFRASTRUCTURE OF DEMOCRACY: CIVIL ENFORCEMENT**



The Division's civil enforcement work strives to protect rights guaranteed by the Constitution and federal laws across a range of areas critical to maintaining the legitimacy of our democracy, including the following.

- We protect the voting rights of all Americans, including minorities, people with disabilities, individuals who need language assistance, servicemembers serving away from home, and American citizens living overseas.
- We protect those who protect us by vigorously pursuing employment, housing, credit, voting, and other cases on behalf of servicemembers.
- We expand access to courts by ensuring that individuals who need language assistance receive effective translation and interpretation services.
- We help ensure full and equal access to courts and the justice system for children and people with disabilities.
- We protect the rights of LGBTI Americans to the maximum extent possible under existing laws and the Constitution.

In addition to litigating cases in district courts, the Division also participates in litigation in the federal courts of appeals and the U.S. Supreme Court to advance and defend its civil enforcement work.

## ❖ PROTECTING VOTING RIGHTS

### *New Challenges after the Supreme Court's Shelby County Decision*

In 2016, even more than 50 years after the Voting Rights Act, too many Americans still face obstacles at the voting booth, unable to elect the candidates of their choice because of their race, color, language ability, disability, military service, or overseas residence. The right to vote stands as the most fundamental right in our democracy, and the Division continues its vigorous enforcement efforts.

Since 1965, the Division's work to protect voting rights has changed substantially. Following the Supreme Court's 2013 decision in *Shelby County v. Holder*, where the Court ruled that the Voting Rights Act no longer requires jurisdictions not subject to a court order to obtain preclearance before implementing new voting procedures, our work has shifted to include critical efforts to proactively identify and investigate voting practices that violate federal law.

The Department continues to use all of the Voting Rights Act's available tools and measures to prevent discrimination in voting. This includes Section 2 of the Act, which allows the Department to challenge racially discriminatory practices that result in citizens having less opportunity to participate in the political process. In the months after the *Shelby County* decision, the Division filed three new statewide Section 2 challenges, alleging in each case that states had engaged in intentional racial discrimination and seeking judicial orders that they submit voting changes for preclearance before implementing them.

By their nature, Section 2 cases require significantly more resources than the administrative Section 5 review process used by the Division prior to the *Shelby County* decision. Previously, under Section 5, a jurisdiction had to affirmatively identify new voting changes in advance and provide information to the Division for analysis. Today, the Division has shifted resources to discover where new voting



changes occur, obtain the necessary information, undertake an analysis of that information, initiate an investigation in the field, and then, when warranted, bring a lawsuit under Section 2 in a local federal court. Litigation of these Section 2 cases presents exceptional complexities since it typically requires hiring multiple experts to analyze and present an extensive array of information, including historical information and data about the jurisdiction, electorate, population, socioeconomic demographics, and geography.

### *Ensuring Access to the Ballot for Native Americans and LEP Individuals*

The Division also works to protect the voting rights of Alaska Natives and Native Americans, as well as voters who need language assistance.

Over the last six years, the Division has taken a number of steps to protect such voters. This

has included filing several statements of interest and amicus briefs in cases involving the voting rights of Native Americans and Alaska Natives. The Division has monitored elections in jurisdictions with significant populations of Native American and Alaska Native voters. The Division has also brought and resolved several lawsuits to ensure voting access for LEP Spanish-speaking voters. And in May 2015, the Department proposed new legislation to improve access to voting for Alaska Natives and Native Americans living on tribal lands.



### *Protecting the Right to Vote for People with Disabilities*

The Division also continues its efforts to protect the rights of voters with disabilities. In addition to protections under the Voting Rights Act, Title II of the ADA requires jurisdictions to ensure that polling places and voting systems remain accessible to people with disabilities. This obligation extends to all voting activities carried out by jurisdictions, including registration, early voting, and voting at the polls on election day. Election officials must provide physically accessible polling places, modify policies as needed to provide access to the polls, and ensure effective communication with people with disabilities. Jurisdictions also must not implement voter eligibility requirements that disenfranchise voters because of intellectual or mental disabilities. The Division has reached agreements with the City of Philadelphia; Blair County, Pennsylvania; and Augusta County, Virginia. We have also opened several additional investigations. The Division published two technical assistance documents providing information on federal laws protecting people with disabilities and how to remove common barriers that exist at polling places.

## ❖ PROTECTING THOSE WHO PROTECT US

Servicemembers defend the security and freedom of our nation at great personal sacrifice. When their duties call them away from home, the Division stands ready to protect their rights. We vigorously enforce federal laws that protect servicemembers' right to vote when stationed away from home, their right to return to work after their military service, their right to live free from





financial exploitation while on active duty, and their right to reasonable accommodation when they have a disability. Many servicemembers rely on the Division to bring cases in situations where they otherwise could not find or afford private attorneys. The Division's work on behalf of servicemembers includes aggressive enforcement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), the Uniformed Services Employment and Reemployment Rights Act (USERRA), and the Servicemembers Civil Relief Act (SCRA).

## ❖ EXPANDING ACCESS TO COURTS AND THE JUSTICE SYSTEM

### *Ensuring Language Access in the Courts*

The Division continues to prioritize protecting the rights of all people – whatever level of English proficiency they hold – to participate meaningfully, fully, and fairly in state court proceedings. Barriers to language access can interfere with the capacity of our courts to accurately evaluate the facts and fairly administer justice. And they can also place unfair and unconstitutional burdens on individuals – from litigants, to criminal defendants, to witnesses – who participate in court proceedings.

Without adequate language assistance services, individuals with limited English proficiency (LEP) may struggle to communicate effectively in court, failing to obtain restraining orders in domestic violence cases, losing homes in foreclosure proceedings, losing custody of their children, or losing their liberty in a criminal proceeding. Under Title VI of the Civil Rights Act, recipients of federal financial assistance – including state courts that receive funds from the Department of Justice – must ensure that LEP individuals can access the programs or services the recipients offer.

The Division's Courts Language Access Initiative ensures that all people – regardless of how proficiently they speak English – have equal access to justice. During FY 2015, the Courts Language Access Initiative worked to ensure that courts in 18 states do not deny individuals access to important court proceedings and operations because of their national origin. In several instances, the Division managed to achieve voluntary compliance without resorting to a full investigation or enforcement action.

### *Ensuring Fairness in the Juvenile Justice System*

The Division also works to ensure fairness in the juvenile justice system – both at the front end to prevent children from ending up in the system in the first place, and to protect their rights when they do. At every stage – from school-based arrests, to detention hearings, to confinement conditions – the Division has continued its steadfast efforts to protect the civil and constitutional rights of all children – particularly the most vulnerable among us: children of color, poor children, and children with disabilities – who come into contact with our juvenile justice system. In many ways, our work highlights both the national challenges we face and the local solutions we need to provide a blueprint for reform.

In addition to the case work detailed later in this budget submission, the Division has worked closely with the Department's Office for Access to Justice to ensure that indigent defendants have access to counsel under the Sixth Amendment, filing statements of interest and launching policy initiatives to advance this critical work and priority of the Attorney General. In a March 2015 case, *N.P. v. Georgia*, for example, the Division filed a statement of interest emphasizing that due process requires every child facing a loss of liberty to receive legal representation – from their first appearance through, at least, the disposition of their case – by an attorney with the training, resources, and time to effectively advocate for him or her. Shortly after our filing, the local court reached a settlement that



included enhanced resources for defenders and a specialization requirement for attorneys representing children in juvenile court.

## **CIVIL ENFORCEMENT: EXPANDING OPPORTUNITY FOR ALL PEOPLE**

The Division's civil enforcement work also includes enforcement of federal laws designed to expand opportunity for all people – including our most vulnerable populations, such as people with disabilities and LGBTI individuals – across a range of areas, from education, to the workplace, to housing and lending.

### **❖ EXPANDING EQUAL OPPORTUNITY IN EDUCATION**

The Division enforces federal laws designed to ensure equal educational opportunities for all of our nation's students, including laws that protect students from discrimination because of their race and national origin, such as Title IV of the Civil Rights Act of 1964. The Division also works with school districts operating under desegregation consent decrees with the United States to ensure that students of all races have equal access to resources and opportunities, particularly in the areas of qualified faculty and staff, facilities, extracurricular activities, transportation, student assignments, and course offerings.

The Division also works to combat the school-to-prison pipeline and eliminate discriminatory discipline practices that impede students' equal access to educational opportunities. Through enforcement efforts, policy guidance, and technical assistance, the Division helps school districts to implement discipline practices consistent with federal law and to minimize exclusionary discipline. We investigate discipline practices that discriminate on the basis of race, disability, sex, national origin, and language status.



In addition, the Division enforces the Equal Educational Opportunities Act of 1974 and Title VI of the Civil Rights Act of 1964, which ensure that English Learner (EL) students receive an education that meets their needs. This includes working directly with school districts to ensure that EL students receive appropriate language services so that they can participate meaningfully in a school's educational programs. Without direct and effective instruction to help them learn English, EL students risk falling behind in their

classes, which can lead to missed opportunities for advanced course offerings, extracurricular activities, on-time graduation, and college readiness.

The Division also seeks equal educational opportunity for students with disabilities. We strive to better integrate students with disabilities into general education programs and eliminate barriers that make it impossible for them to learn in the same classrooms as their peers without disabilities, or to participate in school and community activities. In FY 2014 and 2015, the Division continued to aggressively protect the rights of students with disabilities so that all students have equal access to the resources and opportunities they need to reach their full potential.



The Division investigates and resolves allegations of harassment based on race, national origin, religion, sex, and disability in K-12 schools and institutions of higher education. The Division's settlement agreements require, among other measures, that schools inform parents and students about how to report incidents of harassment and train faculty and staff on how to respond promptly and effectively to such reports. Protecting students from harassment, including sexual harassment and sexual assault, also remains a central priority. The Division continues to dedicate resources to its enforcement work to combat sexual assault, both through new investigations and active enforcement of existing settlement agreements.

## ❖ EXPANDING EQUAL OPPORTUNITY IN THE WORKPLACE

The ability to earn a living and climb the economic ladder defines the American dream. Yet in too many cases, employees still face unequal treatment due to their race, sex, national origin, citizenship or immigration status, religion, or disability.



The Division brings suits utilizing the full array of theories of discrimination available under Title VII. This includes allegations of disparate treatment – or intentional discrimination – and disparate impact, where an employer may not intentionally discriminate against applicants or employees, but its actions may have the effect of adversely and unnecessarily affecting an individual's employment opportunities, revealing implicit or structural bias. This typically arises when an employer uses a facially neutral criterion, such as a written or physical examination, which has a disproportionate and unwarranted impact on a protected group.

The Division also seeks to ensure that servicemembers are entitled to return to their civilian employment upon completion of their military service. Servicemembers should be reinstated with the seniority, status, and rate of pay that they would have obtained had they remained continuously employed by their civilian employer. The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects servicemembers from discrimination in hiring, promotion, and job retention on the basis of past, present, and future membership in the armed services, or military obligations.

In addition, the Division works to protect the rights of immigrants with legal work authorization. Some employers deny employment to work-authorized individuals or subject those individuals to discriminatory employment eligibility verification procedures. Such unfair employment practices have a devastating impact on workers and violate the anti-discrimination provision of the Immigration and Nationality Act (INA).

This type of discrimination often occurs because employers misuse or misunderstand E-Verify, an Internet-based verification system operated by the Department of Homeland Security that allows employers to confirm an individual's employment eligibility. E-Verify-related discrimination can result in qualified, work-authorized individuals losing their jobs or encountering excessive hurdles to maintain their jobs simply because of their immigration status. Victims tend to come from minority, disadvantaged, and immigrant populations or marginalized communities. With an average of more than 1,000 new employers enrolling in E-Verify per week in FY 2016 – and with employer enrollment more than doubling since FY 2011 and totaling more than 600,000 enrolled employers by the beginning of FY 2016 – the Division anticipates that this form of discrimination will continue to remain prevalent. The Division also protects native-born and naturalized U.S. citizens from



employment discrimination because of their citizenship status.

And finally, the Division works to challenge employment discrimination by state and local government employers against people with disabilities. People with disabilities still face barriers to getting a job, maintaining a job, and earning the same benefits and privileges offered to all employees. Vestiges of outdated attitudes and stereotypes still keep qualified people with disabilities unemployed, as do inaccessible workplaces that fail to provide reasonable accommodations. The Division continues its efforts to ensure that job applicants and employees with disabilities receive fair treatment and the same opportunity to succeed in the workplace as those people without disabilities.

## ❖ EXPANDING EQUAL OPPORTUNITY IN HOUSING AND LENDING



A family's access to housing determines far more than where it can live. It affects access to strong schools, quality transportation, and good jobs. Almost five decades after the passage of the Fair Housing Act, housing discrimination and segregation continue to taint communities across the country. Far too many home seekers encounter prejudice, stereotypes, and discrimination that limit where there can live. Continuing discrimination has a particularly harmful impact on African Americans, Latinos, Arab Americans, Asian Americans, people with disabilities, and families with children.

The Division has also reinvigorated its efforts to ensure that all qualified borrowers have equal access to fair and responsible lending. In 2010, the Division created a Fair Lending Unit that aggressively pursues lending

discrimination, and since then, through our settlement agreements, we have now obtained more than \$1.4 billion in relief for individual victims and impacted communities. We focus on all potentially discriminatory action by creditors and all forms of lending – from personal and car loans, to credit cards and mortgages.

In the Division, we utilize a set of three powerful tools to combat lending discrimination. First, statutes such as the Fair Housing Act, the Equal Credit Opportunity Act, and the Servicemembers Civil Relief Act authorize the Justice Department to bring lawsuits in order to ensure a level playing field for borrowers. Second, we rely on federal court decisions that cement the bedrock principles of fair lending enforcement. In this year's *Inclusive Communities* decision, for example, the Supreme Court sided with the Justice Department's argument that the Fair Housing Act authorizes disparate impact claims. Third, we work in partnership with other agencies, including the Consumer Financial Protection Bureau (CFPB), the Department of Housing and Urban Development, the Federal Trade Commission, U.S. Attorneys' Offices, state attorneys general, and bank regulatory agencies. The close cooperation we share with our federal and state partners enables us to expand our capacity to root out and purge discriminatory lending practices. These tools have helped the Division continue with its robust and meaningful record of fair lending enforcement.



## ❖ PROVIDING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES

Even 25 years after the passage of the ADA, individuals with disabilities still face significant barriers to education, public places, and essential services. And the need for vigorous enforcement of this landmark law remains urgent. The Division protects the rights of students, including those at colleges and universities; individuals seeking access to hotels, restaurants, and movie theaters; as well as individuals who need sign language or other services when at a doctor, hospital, or local government agency. We also ensure that parents and prospective parents with disabilities have equal access to parenting opportunities.



The Division also works to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling that requires states, whenever appropriate, to avoid unnecessary segregation of persons with disabilities and to serve them in the community setting rather than in segregated settings. The Division's settlements of *Olmstead* cases are impacting more than 50,000 people with disabilities to ensure that they have meaningful opportunities to receive services in integrated, community-based settings. In FY 2014, the Division had *Olmstead* cases in litigation against the states of New Hampshire, Florida, Oregon, and Texas. We settled the New Hampshire and Oregon cases on favorable terms. Those cases involved the rights of approximately 2,000 persons with mental illness in New Hampshire, approximately 7,000 people with intellectual and developmental disabilities in Oregon, approximately 4,000 Texans with intellectual and developmental disabilities, and approximately 200 children with disabilities living in nursing homes in Florida.

The Division remains involved in statewide litigation in Florida and Texas and has issued letters of findings in Mississippi, West Virginia, and Georgia.

## ❖ PROVIDING OPPORTUNITY THROUGH POLICY DEVELOPMENT, COLLABORATION, COORDINATION, TECHNICAL ASSISTANCE, AND OUTREACH

We also complement our criminal and civil enforcement programs with a variety of other activities and initiatives, including development of regulations and policies, coordination and cooperation with other government agencies, development of technical assistance and trainings, holding convenings, and conducting public outreach.

### *Policy, Regulations, and Legislation*

The Division develops initiatives designed to more fully realize the promise of federal civil rights laws. Examples of the Division's work in this area include the following.

- *We worked on a legislative package to protect servicemembers' civil rights.* In FY 2011 and FY 2016, based on years of experience enforcing the UOCAVA, SCRA, and USERRA, the Division drafted and formally transmitted to Congress a package of legislative proposals to strengthen these statutes. Since that time, the Division, in close consultation with other federal agencies, has continued to refine those proposals and worked to provide extensive technical assistance to Members of Congress considering servicemember-related legislation. During both the 112th and 113th sessions of Congress, the Senate introduced legislation



drawn from the Division's legislative proposals.

- *We proposed federal legislation to improve access to voting for Native Americans and Alaska Natives.* In May 2015, the Division sent a legislative proposal to Congress that would require states or localities whose territory includes part or all of an Indian reservation, an Alaska Native village, or other tribal lands to locate at least one polling place in a venue selected by the tribal government.
- *We developed new ADA regulations to provide compliance guidance to individuals, businesses, and organizations.* In FY 2014 and FY 2015, the Division developed proposed ADA rules related to movie captioning and video description and the definition of disability under the ADA Amendments Act; web accessibility under the ADA; and revised Section 504 of the Rehabilitation Act regulations.
- *We participated in the Federal Agency Reentry Council, chaired by the Attorney General.* The Council represents 20 federal agencies working to make communities safer by reducing recidivism and victimization, assist those who return from prison and jail to become productive citizens, and save taxpayer dollars by lowering the direct and collateral costs of incarceration.

### ***Collaboration with Other Federal Agencies and Other Governmental Actors***

The Division's criminal and civil enforcement work relies on critical partnerships with other federal enforcement agencies; United States Attorneys' Offices; state, local, tribal, and foreign governments; and international organizations. Examples of our work in this area include the following.

- The Division has two new Memoranda of Understanding with the Equal Employment Opportunity Commission (EEOC) to further the goals of Title VII of the Civil Rights Act of 1964, as well as the ADA and the Genetic Information Nondiscrimination Act of 2008 (GINA), in prohibiting employment discrimination in the state and local government sector. The MOUs include provisions for the coordination of the investigation of charges alleging violations of Title VII, the ADA, or GINA, while respecting the distinct responsibilities and enforcement priorities of each agency. Since the agencies began coordinating on charges, the Division has examined more than 300 charges for potential collaboration.
- The Division entered into a Memorandum of Understanding with the Republic of Ecuador, creating a formal partnership between the embassy and its consulates and the Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices. The MOU seeks to empower work-authorized Ecuadorians in the United States by educating them about their rights under the anti-discrimination provision of the INA and providing them with the resources to protect those rights. The MOU also promotes training for employers on their responsibilities under the law.
- Working closely with the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), the Division filed a lawsuit in 2014, alleging that the utility company Entergy and its several subsidiaries violated Executive Order 11246 and federal law by refusing to comply with federal contractor requirements to submit proof of required affirmative action programs to the OFCCP. When the court denied Entergy's motion to dismiss, the parties reached a favorable settlement in which Entergy agreed to immediately comply with Executive Order 11246. The executive order prohibits certain federal contractors from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. It also requires contractors to take affirmative action to ensure that they provide equal opportunity in all aspects of their



employment.

- The Division's partnership with the CFPB continues to play a critical role in recovering millions of dollars in damages for victims of discriminatory lending.
- The Division has partnered with the Departments of State and Homeland Security in a program designed to educate foreign governments about the legal tools they can create to promote and realize religious freedom within their own countries. Specifically, the interagency effort includes trainings and workshops in foreign countries to educate foreign officials and civil society about the protection of religious freedom in the United States through law enforcement and other methods utilized by the Division.
- The Division's close working relationships with U.S. Attorneys' Offices, in addition to enforcing other federal civil rights laws, have helped rescue human trafficking victims and put traffickers in prison.
- In a transformative and historic step on criminal justice reform, President Obama recently announced that he will adopt the recommendations in a Justice Department report to reform the use of restrictive housing, including solitary confinement, in our federal prison system. The report also establishes more than 50 "Guiding Principles," or best practices, designed to serve as a roadmap for reform as correctional systems across the country confront this issue. Working alongside other Justice Department components and offices, staff in the Civil Rights Division played a key role in shaping, informing, and contributing to the report.

### ***Guidance Documents, Technical Assistance, Training, and Outreach***

Across a wide range of areas, the Division recognizes that individuals and organizations sometimes need assistance in understanding their rights and responsibilities under federal law.

#### **Education**

- In January 2015, the Division and the Office for Civil Rights at the Department of Education issued a joint guidance package to all public school districts, schools, and state education agencies regarding their federal obligations toward EL students and LEP parents.
- In FY 2014, the Division, in cooperation with the Department of Education, issued supplemental guidance on *Plyler v. Doe* and related obligations to ensure that all students can enroll in elementary and secondary schools regardless of race, national origin, or immigration or citizenship status.
- Also in 2014, the Division and the Office for Civil Rights at the Department of Education issued joint guidance regarding schools' obligations not to discriminate on the basis of race, color, or national origin in the administration of student discipline.
- In December 2014, in partnership with the Department of Education, the Division released a guidance package on juvenile correctional education. We included a Dear Colleague Letter that established clear guidelines on how federal civil rights laws apply to the 60,000 youth in our country's juvenile justice residential facilities. The letter covered a range of areas, including equal opportunities to access academic coursework, administration of discipline, and effective communication for students with disabilities, among others.

#### **Disability Rights**



- In 2014 and 2015, the Division issued new technical assistance documents addressing: parental rights (with the Department of Health and Human Services); the provision of effective communication in public elementary and secondary schools (with the Department of Education); a primer for Title II entities; a frequently asked questions guide about service animals and the ADA; street resurfacing supplemental guidance (with the Department of Transportation); the rights of voters with disabilities; testing accommodations; and the rights of people living with HIV/AIDS.
- The ADA requires the Division to provide technical assistance to businesses, state and local governments, people with disabilities, non-profit agencies, and others who have responsibilities or rights under Titles II and III of the ADA. To carry out this mandate, the Division creates and disseminates an array of technical assistance materials; operates a nationwide toll-free ADA Information Line and the ADA website; provides educational presentations and training sessions; and engages in outreach targeted to businesses, state and local governments, and people with disabilities. The Division's Technical Assistance Program strives to provide accurate, understandable, and timely information to people across the country, to increase understanding of, and voluntary compliance with, the ADA. In FY 2014 and 2015, the ADA Information Line responded to more than 101,000 calls, and the ADA website received close to 33 million hits.
- The Division provided outreach and education to covered entities and people with disabilities on the requirements of the ADA. In FY 2015, we presented 53 speeches, workshops, and training sessions to a combined audience of more than 6,000 people.

### **Language Access in the Courts**

- In FY 2014, the Division brought together key stakeholders to discuss efforts to improve language access in the courts, releasing a "Language Access Planning and Technical Assistance Tool for Courts" designed to help courts prevent national origin discrimination and ensure equal access to justice for all.
- The Division's technical assistance efforts have helped to ensure expanded access for LEP individuals in state courts from Hawaii to Maryland. In March 2015, the Division closed its review of the Hawaii Judiciary's Language Access Program following the Department's successful provision of technical assistance to the Hawaii Judiciary. Hawaii Courts now have measures in place to help ensure that people have equal access to justice, regardless of the language they speak or the English proficiency they possess.

### **Combating Workplace Discrimination**

- The Division has conducted an extensive, nationwide public outreach campaign to educate workers, employers, and concerned organizations about the anti-discrimination provision of the INA. In FY 2015, the Division participated in more than 200 public outreach sessions and webinars and handled more than 4,500 calls through its employer and worker hotlines.
- In FY 2014, the Division collaborated with the EEOC and the Department of Labor on the Vulnerable Workers Project, which focuses on strengthening employment and labor protections and enforcement for vulnerable Asian-American and Pacific Islander (AAPI) workers in high-risk and low-wage industries. Together, these agencies organized listening sessions with AAPI workers and stakeholders in different U.S. cities to hear about the employment and labor challenges they face and to share information about the federal agency resources available.



- In December 2015, with the Department of Homeland Security (DHS), the Division issued joint Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits. The two agencies developed the joint guidance with significant input from DHS's Office of Civil Rights and Civil Liberties, U.S. Citizenship and Immigration Services, the Department of Labor, the National Labor Relations Board, the EEOC, and stakeholders around the country.

### **Policing**

- In December 2015, the Division collaborated with the Department's Office on Violence Against Women (OVW) and Office of Community Oriented Policing Services (COPS Office) to issue new gender bias policing guidance, aiming to help law enforcement agencies prevent gender bias in their response to sexual assault and domestic violence, highlighting the need for clear policies, robust training, and responsive accountability systems.



## II. SUMMARY OF PROGRAM CHANGES

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Item Name					Page
	Description	POS	FTE	Dollars (\$000)	
<b>Policing and Criminal Justice</b>	Protect the rights of children and people with disabilities in interactions with the criminal justice system.	24	12	\$2,700	37
<b>Civil Rights of Servicemembers</b>	Defend the civil rights of our active duty military servicemembers and veterans.	5	3	587	41
<b>Protect the Rights of People with Disabilities</b>	Ensure fair access to technology and education for people with disabilities.	7	4	983	44
<b>Total</b>		<b>36</b>	<b>19</b>	<b>\$4,270</b>	

## III. APPROPRIATIONS LANGUAGE AND ANALYSIS OF APPROPRIATIONS LANGUAGE

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Please refer to the General Legal Activities Consolidated Justifications.

### Analysis of Appropriations Language

The Civil Rights Division directs and manages federal enforcement of the provisions of the Voting Rights Act, including the election monitoring provisions of the Act. The Division reimburses the Office of Personnel Management for salaries and expenses that it incurs for federal observers for elections. The language change ensures that the appropriations language fully covers the election monitoring program, which operates under numerous provisions of the Voting Rights Act – not just Section 8. Travel is the single biggest cost associated with DOJ's own election monitoring work.



## IV. PROGRAM ACTIVITY JUSTIFICATION

### A. Civil Rights Division Decision Unit

#### 1. Program Description

Civil Rights Division	Permanent Positions	Estimated FTE	Amount
2015 Enacted (FTE is actual)	714	565	\$147,239
2016 Enacted	714	606	148,239
Adjustments to Base	0	0	3,112
2017 Current Services	714	606	151,351
2017 Program Increases	36	19	4,270
2017 Request	750	625	\$155,621
<b>Total Change 2016-2017</b>	<b>36</b>	<b>19</b>	<b>\$ 7,382</b>

Civil Rights Division <i>Information Technology Breakout</i>	Direct Positions	Estimated FTE	Amount
2015 Enacted (FTE is actual)	15	15	\$10,922
2016 Enacted	15	15	11,727
Adjustments to Base and Technical Adjustments	0	0	187
2017 Current Services	15	15	11,914
2017 Request	15	15	\$11,914
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$ 187</b>

Established in 1957, the Division is comprised of 11 program-related sections, as well as the Professional Development Office, the Office of Employment Counsel, and the Administrative Management Section. A description of the Division's responsibilities and activities, as well as accomplishments for its program-related sections, is presented below.

The Division is a single decision unit within the General Legal Activities appropriation and is led by the Assistant Attorney General (AAG) for Civil Rights. A principal deputy assistant attorney general and four deputy assistant attorneys general work with the AAG to supervise the Division's two programmatic areas: criminal enforcement and civil enforcement.

The Division's Criminal Section falls under the Criminal Enforcement program area (90 positions, \$19,199,000). The Appendix provides a summary of each of the criminal statutes enforced by the Division's Criminal Section.



The Division's Civil Enforcement program area (660 positions, \$136,422,000) includes the Division's remaining 10 program-related sections:

- Appellate
- Disability Rights
- Educational Opportunities
- Employment Litigation
- Federal Coordination and Compliance Section
- Housing and Civil Enforcement
- Office of Special Counsel for Immigration-Related Unfair Employment Practices
- Policy
- Special Litigation
- Voting

The Appendix provides a summary of each of the civil statutes enforced by the Civil Rights Division and identifies the civil litigating section responsible for enforcing each statute.



2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE											
DECISION UNIT: CIVIL RIGHTS DIVISION											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		635	\$147,239 [\$10,058]	635	\$147,239 [\$12,488]	699	\$148,239 [\$25,415]	2	\$3,112 [-\$3,315]	701	\$155,621 [\$22,100]
STRATEGIC OBJECTIVE: 2.5	PERFORMANCE	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity	Civil Rights	635	\$147,239 [\$10,058]	635	\$147,239 [\$12,488]	699	\$148,239 [\$25,415]	2	\$3,112 [-\$3,315]	701	\$155,621 [\$22,100]
Performance Measure (New in FY 2017)	Number of human trafficking leads and complaints reviewed by the Human Trafficking Prosecution Unit	NA		NA		154		NA		158	
Performance Measure	Number of matters opened concerning human trafficking	154		143		154		NA		NA	
Performance Measure	% of criminal cases favorably resolved	85		85.25		85		NA		85	
Performance Measure	% of civil cases favorably resolved	85		99		85		NA		85	
Data Definition, Validation, Verification, and Limitations: The data source for all measures is the Civil Rights Division's (CRT) Interactive Case Management System (ICM). The ICM is the official workload system of record for CRT and is used to generate key data for both internal and external inquiries. The ICM captures and reports on the level of effort that attorneys and professionals dedicate to matters and case-related tasks. Senior managers of CRT are responsible for ensuring the accuracy of the data contained in the ICM.											

Strategic Objective	PERFORMANCE MEASURE TABLE										
	CIVIL RIGHTS DIVISION										
	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017	
			Actual	Actual	Actual	Actual	Target	Actual	Actual	Target	
2.5	Performance Measure	Number of trainings on human trafficking conducted for federal, state, and local law enforcement, NGOs, and international trafficking partners							154	158	
2.5	Performance Measure	Number of matters opened concerning human trafficking				161	150	143	154	N/A	
2.5	Performance Measure	% of criminal cases favorably resolved	84	94	94	99	85	86.25	85	85	
2.5	Performance Measure	% of civil cases favorably resolved	97	98	84	90	85	99	85	85	



### 3. Performance, Resources, and Strategies

## PROTECTING INDIVIDUALS FROM EXPLOITATION, DISCRIMINATION, AND VIOLENCE

### Criminal Enforcement

The Criminal Section's career prosecutors continue to achieve remarkable results, keeping pace with the record-setting levels of productivity and effectiveness demonstrated in recent years. Each year, the Division receives more than 10,000 complaints alleging criminal interference with civil rights. In FY 2015, the Division filed a record 146 cases. In FY 2013, the Division filed its second-highest number of cases, 141. Furthermore, the Division filed 31 percent more criminal civil rights prosecutions in the last six fiscal years (772 indictments in FY 2010 – FY 2015) than the previous six years (590 indictments in FY 2004 – FY 2009), without an increase in staff.

In FY 2014 and FY 2015, the Division exceeded its performance goals.

- During those two years, the Division, in conjunction with United States Attorneys' Offices, charged 472 defendants with criminal civil rights violations.
- In fiscal years 2014 and 2015, the Division filed 278 criminal civil rights cases, the highest number compared with any other two-year period since counting began in 1993.
- In fiscal years 2014 and 2015, the Division filed 157 human trafficking cases, the highest number in any two-year period since counting began in 1993.
- In the seven years since the passage of the Shepard-Byrd Hate Crimes Prevention Act, the Division has charged 68 defendants and won 43 convictions under this statute. In total, the Division has prosecuted 236 defendants for hate crimes under multiple statutes over the last seven years, a 23 percent increase over the prior seven year period.
- The Division leads the Department's law enforcement response to address post 9/11 "backlash" violence. Working with our U.S. Attorney colleagues, since 9/11, we have investigated more than 1,000 incidents involving acts of violence, threats, assaults, vandalism, and arson targeting Arab, Muslim, Sikh, and South Asian Americans, as well as individuals perceived as members of these groups, prosecuting dozens of these cases to the fullest extent of the law.
- While achieving these record results, the Division's Criminal Section has also operated its cold case initiative, pursuant to the Emmett Till Cold Case Act of 2007, in which Section prosecutors have reviewed voluminous evidence in more than 100 civil rights era unsolved hate crime homicides.

### ❖ CASE EXAMPLES: PROSECUTING HUMAN TRAFFICKING

*United States v. Cadena* – The Department secured a 5-year prison sentence against a Mexican national for supporting a brutal family-run sex trafficking organization that lured vulnerable undocumented Mexican women and girls to the United States on false promises of legitimate jobs, raped them repeatedly, and forced them – under the threat of violence – to engage in prostitution. In



recent years, other family members have pled guilty and received sentences ranging from 2-15 years.

*United States v. Serrano, et. al* – The Department won a conviction against the leader of a human trafficking ring, alleging that he lured Guatemalan minors and adults into the United States on false pretenses and then used threats of physical harm to compel their labor at egg farms in Ohio. The defendant forced the victims to work at physically demanding jobs for minimal pay and live in dilapidated trailers.

## ❖ CASE EXAMPLES: COMBATING HATE CRIMES

*United States v. Dedmon, et al.* – In a Mississippi case stretching from an investigation in 2011, 10 people conspired to harass and assault African Americans in the Jackson, Mississippi area, disparagingly calling it “Jafrika.” One night, their terror culminated in the death of an African-American man, who several of the individuals assaulted and then ran over in a pickup truck as they yelled “White Power.” The Department won convictions against each of the 10 defendants, including against two defendants who plead guilty in January 2015.

*United States v. Dylann Storm Roof* – Following a night of unspeakable violence that left nine parishioners dead during a Bible study group in their South Carolina church, the Department brought federal hate crime charges against the defendant, alleging that he murdered African Americans because of their race.

## ❖ CASE EXAMPLES: PROSECUTING OFFICIALS WHO INTENTIONALLY VIOLATE INDIVIDUALS’ CONSTITUTIONAL RIGHTS

*United States v. Hinton, et al.* – The Department secured federal prison sentences against four former Georgia correctional officers for offenses relating to beating multiple inmates – including one who suffered a traumatic brain injury during an assault – and then covering up the practice by turning in false reports and providing misleading statements to investigators.

*United States v. Worrell* – The Department won a conviction against a former prosecutor for the St. Louis Circuit Attorney’s Office for concealing her knowledge of a local police officer’s assault upon an arrestee. The prosecutor acknowledged that she filed charges without disclosing knowledge of the assault to her colleagues, supervisors, or the judge assigned to setting bond.

## Civil Enforcement

The Division’s Special Litigation Section works to protect the rights of children and adults in institutional settings, including nursing homes, mental health institutions, juvenile detention centers, and prisons. These efforts continued in FY 2015.

## ❖ CASE EXAMPLES: PROTECTING THE RIGHTS OF CHILDREN AND ADULTS IN INSTITUTIONS

*United States v. Ohio, et al.* – Following years of thorough investigation, effective litigation, and independent monitoring, the Department terminated its consent decree with Ohio in December 2015 after the state successfully implemented transformative reforms in its juvenile correctional facilities and policies. These reforms spanned an array of areas and included eliminating the use of solitary confinement for punishment, ensuring individualized mental health care, and dramatically reducing the population of incarcerated children from a system that once incarcerated more than 2,000 children to one that holds fewer than 500 today.



*United States v. Leflore County* – Following a Justice Department investigation, we reached an agreement in March 2015 with Leflore County, Mississippi, to improve security and facility conditions at the Leflore County Juvenile Detention Center in Greenwood, Mississippi. Leflore County committed to numerous reforms to protect children in its care from abuse and self-harm, to improve its security and emergency preparedness, and to improve its medical and mental health care. Leflore County also pledged to end the use of solitary confinement as a form of discipline and to limit solitary confinement to a cool-down period not to exceed one hour.

## **SAFEGUARDING THE FUNDAMENTAL INFRASTRUCTURE OF DEMOCRACY**

### **Protecting the Right to Vote**

The Division's Voting Section brings affirmative litigation to enforce federal voting laws and defends the United States when it faces lawsuits over voting matters. Despite the resource-intensive nature of its cases and setbacks from the Supreme Court's 2013 *Shelby County* decision, the Voting Section remains highly productive in safeguarding voting rights. From FY 2012 to FY 2015, the Voting Section represented the United States in 67 new voting cases. This includes having filed three new statewide complaints under Section 2 of the Voting Rights Act; filed and obtained favorable resolutions in 10 new UOCAVA cases to ensure military and overseas voters the opportunity to vote; defended 35 new cases brought under various provisions of the Voting Rights Act or the Constitution; and monitored 200 elections in jurisdictions around the country.

In addition, the Division's Disability Rights Section enforces the ADA's requirements to ensure equal access to polling places and the election process for people with disabilities.

### **❖ CASE EXAMPLES: PROTECTING VOTING RIGHTS**

*Veasey v. Abbott* – Following a lawsuit filed by the Department, in October 2014, a federal district court found a Texas Voter ID law racially discriminatory -- both in purpose and in result. The court quoted one witness – an African-American retiree living on \$321 per month, struggling to save the \$42 she needed to obtain her birth certificate and photo ID – to demonstrate how the discriminatory law forced some in poverty to “choose between purchasing their franchise or supporting their family.” More than 600,000 voters in Texas, including a disproportionate number of African-American and Hispanic voters, lacked the type of ID required by this law. In August 2015, the Fifth Circuit issued a unanimous opinion upholding the district court's finding that the law had a discriminatory result, in violation of Section 2 of the Voting Rights Act.

*United States v. North Carolina* – The Division went to trial following its lawsuit filed against the State of North Carolina, alleging that a new state law adopted in 2013 violates the Voting Rights Act. The law's troubling restrictions include provisions that will significantly reduce early voting days, eliminate same-day registration during early voting, eliminate safeguards that allowed provisional ballots to be counted when cast in the right county but incorrect precinct, and impose a restrictive photo ID requirement for in-person voting. The Department argued at trial that such measures will disproportionately impact African-American voters and that the law intentionally discriminates on the basis of race.

### **Protecting Those Who Protect Us**

Three sections of the Civil Rights Division – Employment Litigation, Housing and Civil



Enforcement, and Voting – enforce statutes designed to protect servicemembers from civil rights violations. In addition, the Disability Rights Section brings cases involving servicemembers who face discrimination because of their disability.

In FY 2015 the Division took the following actions to protect the rights of servicemembers.

- The Housing and Civil Enforcement Section obtained a \$10 million settlement under the SCRA against one of the nation’s largest retail auto lenders for unlawfully repossessing the automobiles of more than 1,000 servicemembers.
- The Employment Litigation Section, individually and in concert with several United States Attorneys’ Offices, filed seven suits to vindicate the employment rights of servicemembers who have returned from active duty and reached settlements in 12 cases.
- The Voting and Appellate Sections continued litigating two UOCAVA cases on behalf of servicemembers.

## **❖ CASE EXAMPLES: PROTECTING THOSE WHO PROTECT US**

*United States v. Sallie Mae, Inc.* – Following a \$60 million dollar settlement with the Division for failing to reduce interest rates on servicemembers’ student loans to 6 percent, Sallie Mae began distributing those funds to nearly 78,000 servicemembers, and the groundbreaking settlement triggered systemic changes to the student loan industry. The Department of Education now requires the servicers of federally-owned and federally-guaranteed student loans to proactively use the Defense Manpower Data Center to identify servicemembers entitled to the 6 percent benefit, rather than waiting for these servicemembers to send in their orders.

*United States v. Missouri National Guard* – In March 2015, the Department settled its lawsuit with the Missouri National Guard (MNG) alleging that the MNG had violated the USERRA rights of its dual service technicians by forcing them to resign their civilian employment prior to entering into active duty. The Department alleged that MNG’s refusal to place dual service technicians on furlough or leave of absence from their civilian jobs, by forcing a separation, resulted in the loss of paid military leave. Under the terms of the settlement agreement, MNG has agreed to rescind its current policy requiring separation in order to enter active duty and to compensate 138 total members of the Missouri National Guard over 2,000 days of paid leave for past alleged USERRA violations.

### **Ensuring Effective and Democratically-Accountable Policing**

The Division’s Special Litigation, Employment Litigation, and Federal Coordination and Compliance Sections work to ensure effective, constitutional, and accountable policing. As described earlier in this budget submission, in FY 2015, the Special Litigation Section’s enforcement of the pattern-or-practice provisions of the Violent Crime Control and Law Enforcement Act of 1994 continued to expand.

To maximize its resources, the Section has also actively pursued opportunities to file statements of interest in private lawsuits around the country that bear upon its practice. Over the last two years, the Section has filed several statements of interest related to its authority under the Violent Crime Control and Law Enforcement Act, including statements on the criminalization of homelessness; the monitoring of the New York City Police Department’s stop and frisk practices; the right to record public police activity; national origin discrimination and language access; and appropriate injunctive relief for Fourteenth Amendment equal protection violations. These statements of interest not only



influence particular lawsuits, but they also impact state and local governments and law enforcement agencies across the country.

In addition, the Employment Litigation Section (ELS) works to ensure that police departments use fair and equitable hiring and promotion processes, helping to ensure that police departments hire highly qualified individuals from a broad range of backgrounds. The Section's enforcement of pattern-or-practice Title VII cases has included investigations and lawsuits filed against numerous police departments nationwide. In particular, in 2014 ELS filed a lawsuit against the Pennsylvania State Police alleging discrimination against women, and in 2015, ELS filed a lawsuit against the City of Lubbock, Texas, alleging that the city's police department engaged in a pattern-or-practice of employment discrimination against women and Hispanics. Both cases seek to redress systemic discrimination in entry level-hiring.

Finally, the Federal Coordination and Compliance Section works to ensure that law enforcement recipients of federal funds do not discriminate on the basis of race, color, and national origin.

## ❖ CASE EXAMPLES: ENSURING EFFECTIVE AND DEMOCRATICALLY-ACCOUNTABLE POLICING

*Cleveland, Ohio* – In May 2015, as a result of cooperation between a wide range of public officials and stakeholders in Cleveland – including the city's mayor, police chief, police union leaders, and community members – the Division reached an innovative and comprehensive consent decree to reform police policies and practices. The agreement will help provide officers with the equipment they need to perform their jobs safely as well as the training and employee assistance they deserve. The agreement also includes both formal and informal mechanisms to ensure greater community engagement with the police department and strengthen the type of trust so vital to advancing public safety.

*Lubbock, Texas* – In December 2015, the Division filed a lawsuit challenging two separate hiring practices by the Lubbock Police Department (LPD). We charged that LPD's use of an entry-level written examination had a statistically significant disparate impact on Hispanic applicants and that a physical fitness test had a statistically significant disparate impact on women. We also alleged neither selection device was job related nor consistent with business necessity.

## EXPANDING OPPORTUNITY FOR ALL PEOPLE: CIVIL ENFORCEMENT

### Expanding Equal Opportunity in Education

In FY 2014 and 2015, the Educational Opportunities Section continued its vigorous efforts to protect students from discrimination and harassment in public schools and universities. The Section's accomplishments include the following.

- We resolved 19 cases to protect the rights of students.
- We opened 26 investigations of alleged discrimination on the basis of race, national origin, sex, religion, disability, and language services.
- We negotiated eight agreements to protect the rights of EL students, including a comprehensive consent decree benefitting more than 16,000 EL students in the historic *Lau v. Nichols* case and a significant out-of-court settlement to ensure that Navajo-speaking EL



students in a school district receive appropriate language support services under the Equal Educational Opportunities Act.

- We enforced, and/or monitored, approximately 180 school desegregation cases involving the United States as a party.

In addition, the Educational Opportunities Section works independently and with the Disability Rights Section to protect the rights of students with disabilities, and the Special Litigation Section works to protect the rights of youth in juvenile justice institutions. The Division's Appellate Section, which handles criminal and civil appeals in federal courts, also works with the Educational Opportunities Section to protect the rights of students.

## ❖ CASE EXAMPLES: EXPANDING EQUAL OPPORTUNITY IN EDUCATION

*Hereford and United States v. Huntsville Board of Education* – In April 2015, a federal court in Alabama approved a consent order filed by the Division and the Huntsville, Alabama, Public Schools with the capacity to eliminate – root and branch – the devastating impact of longstanding racial segregation in local schools. The consent order revises attendance zones and strengthens magnet offerings across the school district; expands access to pre-K education, gifted programs, advanced course offerings, academic after-school programs and college counseling; and includes comprehensive remedies to address racial discrimination in student discipline.

*United States v. Georgia Department of Education* – After an extensive investigation regarding the unnecessary segregation of students with behavior-related disabilities in so-called “special” schools in Georgia, the Division issued a letter of findings in July 2015. The letter about the Georgia Network for Educational and Therapeutic Support (GNETS) Program emphasized that the ADA does not permit states to unnecessarily place students with behavior-related disabilities in separate, unequal, schools when they could learn in regular schools and classrooms.

## ❖ CASE EXAMPLES: PROTECTING STUDENTS FROM SEXUAL ASSAULT AND HARASSMENT IN SCHOOL

The Division works tirelessly to protect students from sexual assault and harassment. In order to maximize its ability to protect students from sexual assault, the Division brings enforcement actions and participates in suits filed by private plaintiffs. Examples of the Division's work in this area include the following cases.

*Hill v. Madison County School Board* – The Division's Appellate Section filed an amicus brief in *Hill v. Madison County School Board*, a Title IX sexual assault case where a school employee used a 14-year-old female student as bait to entrap a student accused of multiple incidents of sexual misconduct. The entrapment plain failed and the defendant raped the female student in the school bathroom. When the district court dismissed charges against the school district, the Division filed a brief arguing that the school district knew the defendant posed a substantial risk to others because of his extensive history of sexual misconduct. In August 2015, the Eleventh Circuit reversed the district court's ruling, agreeing with much of the reasoning in the Division's amicus brief.

*Junior Doe, et al. & United States v. Allentown School District* – The Division continued its vigorous enforcement of a consent decree reached with the Allentown, Pennsylvania, School District to resolve allegations that the district failed to take appropriate action after it learned about repeated reports of sexual assault against six and seven-year old students. The consent decree requires the district to implement a comprehensive plan – along with policies and procedures – for addressing and



preventing sexual harassment. It also requires the district to provide sex-based harassment training for administrators, faculty, staff, students, and parents. After conducting a review in early 2015, the Division found that the school district has not yet complied with the terms of the consent decree and consequently negotiated an extension until July 2016.

### **Expanding Equal Opportunity in Housing and Lending**

In FY 2015, the Division's Housing and Civil Enforcement Section devoted significant resources to fair lending and fair housing cases. From FY 2014 to the present, the Division expanded fair housing and lending opportunities by filing 80 lawsuits, including 57 pattern-or-practice lawsuits, to combat housing and lending discrimination. Furthermore, during that time period, the Division settled 83 housing and lending cases, including 67 pattern-or-practice cases. Many of these cases involved significant, ground-breaking settlements. The lending cases alone have resulted in more than \$1.4 billion in monetary relief since the Fair Lending Unit's inception in 2010, and relief to hundreds of thousands of victims.

### **❖ CASE EXAMPLES: PROMOTING EQUAL OPPORTUNITY IN HOUSING AND PREVENTING DISCRIMINATORY LENDING**

*United States v. Southeastern Community and Family Services, Inc.* – The Division sued a public housing agency in Scotland County, North Carolina and two now-former employees for violating the Fair Housing Act. Among other violations, the Division alleged that the agency's former housing coordinator and housing inspector had conditioned or offered Section 8 voucher benefits in exchange for sexual acts and taken adverse actions against women who rebuffed their sexual advances. For example, we alleged that the defendants made unwelcome sexual comments, subjected female applicants to unwanted sexual touching, and advanced female applicants on the Section 8 waiting list in exchange for sexual acts. In July 2015, we reached a \$2.7 million settlement – the largest settlement ever achieved by the Division in a sexual harassment case under the Fair Housing Act.

*United States v. American Honda Finance Corporation* – The Division and the CFPB achieved a groundbreaking settlement to resolve a lawsuit alleging that American Honda Finance Corporation – the nation's ninth-largest auto lender – engaged in a pattern-or-practice of discrimination against black, Hispanic, and Asian borrowers. Of particular importance in the settlement, Honda agreed to significantly limit the discretion of car dealers to charge interest rate markups on Honda loans. The settlement provides \$24 million in compensation for alleged victims of past discrimination, and Honda will pay \$1 million to fund a financial education program that seeks to benefit African-American, Hispanic, and Asian populations. Compliance is underway and is projected to last five years.

### **Expanding Equal Opportunity in the Workplace**

Three sections of the Division – Employment Litigation, Disability Rights, and the Office of Special Counsel for Immigration-Related Unfair Employment Practices – work to prevent workplace discrimination on the basis of race, national origin, sex, religion, disability, and immigration status. During FY 2015, the Division continued its ongoing efforts to ensure equal employment opportunity for all individuals. The Division's employment enforcement activities include the following.

- We filed four new suits and launched 16 new investigations under Title VII that cover a wide range of claims, including discrimination based on race, national origin, sex, religion, retaliation, and discrimination in compensation and hiring.



- We resolved four matters under Title VII through a combination of consent decrees, court-approved settlement agreements, and out-of-court settlements.
- We collected a record-breaking \$1.6 million in back pay and civil penalties from, and entered into 18 settlement agreements with, employers for violations of the anti-discrimination provision of the INA.
- Under Title I of the ADA, we filed two consent decrees enforcing the rights of individuals with disabilities to be hired free of discrimination and to receive reasonable accommodations to perform their jobs. We also reached seven settlement agreements with state and local government employers to remove impermissible disability-related questions from their online employment applications and to make those online applications accessible.
- The Division's settlement agreement with the State of Oregon calls for 1,115 people in sheltered workshops to receive jobs in the community at competitive wages over the next seven years. In addition, 7,000 people will receive employment services that will afford them the opportunity to work in the community, including at least 4,900 youth ages 14 to 24 years old, who are exiting school.

## ❖ CASE EXAMPLES: EXPANDING EQUAL OPPORTUNITY IN THE WORKPLACE

*United States v. City of New York* – In 2009, after a lawsuit brought by the Department, a federal court found that New York City's entry-level firefighter selection practices discriminated against African Americans, Hispanics, and women. This past year, the Division oversaw the City's distribution of \$99 million to 1,400 victims of discrimination – the largest award ever obtained by the Division in a pattern-or-practice employment case. In 2014, one of those victims, Firefighter Jordan Sullivan – a man driven to serve his community after 9/11 but who initially failed the City's discriminatory entrance exam – rescued a five month old baby from the fifth floor of a burning housing project in Brooklyn, according to a June 2014 *New York Times* story, "Baptism by Fire."

*United States v. South Dakota Department of Social Services* – In a November 2015 lawsuit, we alleged that the South Dakota Department of Social Services (DSS) had engaged in a pattern-or-practice of employment discrimination against Native Americans by imposing arbitrary and subjective criteria that resulted in discriminatory hiring for a series of Employment Specialist jobs at the state agency's Pine Ridge Reservation office. Our investigation revealed a pattern of vacancies in which DSS either passed over qualified Native Americans to select less qualified candidates or closed vacancies rather than select a qualified Native American candidate.

*Settlement with McDonald's USA, LLC* – The Department reached a settlement with McDonald's USA, LLC and its corporate affiliates and subsidiaries to resolve allegations that the company discriminated against immigrant employees of McDonald's-owned restaurants. The Division's investigation found that McDonald's had a longstanding practice of requiring lawful permanent residents to show a new permanent resident card when their original document expired, even though the law prohibits this practice. Under the settlement agreement, McDonald's will pay \$355,000 in civil penalties to the United States, undergo monitoring for 20 months, and train its employees on the INA's anti-discrimination provision.

### **Providing Opportunities for People with Disabilities**

The Division's Disability Rights Section continued its steadfast efforts to expand opportunities for



people with disabilities through implementation of the ADA. In FY 2015, the Section accomplished the following results.

- We reached the Division's first-ever settlement agreement to ensure that Massive Open Online Courses (MOOCs) and online learning platforms are accessible to people with disabilities. The agreement, between the United States and edX Inc., will help expand access for individuals with vision, hearing, and manual dexterity disabilities to the more than 450 courses offered by edX.
- We entered a consent decree in *United States v. Riverside County, California*, resolving allegations that the county had discriminated by failing to hire a probation officer because he had controlled epilepsy. The officer was qualified for the job but was not hired based on outdated stereotypes and attitudes about people with epilepsy.
- In March 2015, the Division launched its new online ADA complaint form, allowing individuals to file ADA complaints completely electronically, saving countless hours of staff time entering this data by hand. The new system will allow the Section to more quickly process the more than 9,000 complaints we receive each year.
- The Division has built an impressive mediation program to assist with the disposition of the thousands of complaints received each year. In FY 2015, the ADA Mediation Program referred 435 matters, completed 328 matters, and successfully resolved 74 percent of these cases. Since inception, the program has an overall success rate of 78 percent.
- We continued our robust ADA Technical Assistance Program to promote voluntary compliance with the ADA and provide free information and technical assistance directly to businesses, state and local governments, people with disabilities, and the general public.

### ❖ CASE EXAMPLES: PROVIDING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES

*Lane v. Brown* – In December 2015, a federal court approved a settlement agreement among the Justice Department, a class of private plaintiffs, and the state of Oregon to ensure that approximately 7,000 people with intellectual and developmental disabilities will no longer have to work in segregated subminimum-wage sheltered workshops in order to receive employment services. Instead, adults will receive employment support in competitive integrated jobs in their own communities. The Division's work helped a young man transition from his \$1.70 per hour job assembling company parts in a sheltered workshop, to a teacher's aide position at the local YMCA, where today he helps kids complete their homework and resolve their conflicts.

*Massachusetts DCF Letter of Findings* – In collaboration with the Department of Health and Human Services, the Division issued a letter of findings determining that the Massachusetts Department of Children and Families (DCF) discriminated against a parent with an intellectual disability by failing to provide equal reunification services and failing to reasonably modify its service policies. After the child welfare agency removed a two-day old infant from her home simply because of her mother's intellectual disability, the Division helped reunite the baby girl with her family. She continues to laugh, play, and smile – surrounded by the loving care of her grandparents and mother.

## B. Strategies to Accomplish Outcomes

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The Division's work directly supports the Justice Department's 2014 – 2018 Strategic Plan. Specifically, the Division's criminal and civil enforcement work, as well as policy work, supports



**DOJ Strategic Objective 2.5: “Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices.”**

The Department works to uphold the civil and constitutional rights of all Americans, including the most vulnerable members of society. Federal civil rights statutes reflect some of America’s highest ideals and aspirations of equal justice under law. These statutes not only aim to protect the civil rights of racial and ethnic minorities, but also of members of religious groups, women, people with disabilities, servicemembers, individuals housed in public institutions, and individuals who come from other nations and speak other languages.

The Division supports Strategic Objective 2.5 by advancing three basic principles, as outlined earlier in this budget submission: first, protecting the most vulnerable among us by ensuring that all in America can live free from fear of exploitation, discrimination, and violence; second, safeguarding the fundamental infrastructure of democracy by protecting the right to vote and access to justice, ensuring that communities have effective and democratically-accountable policing, and protecting those who protect us; and third, expanding opportunity for all people by advancing the opportunity to learn, earn a living, live where one chooses, and worship freely in one’s community.

The Division further supports Strategic Objective 2.5 by engaging in a variety of activities including criminal and civil enforcement and litigation, prevention efforts, outreach initiatives, and technical assistance. The Division also supports Strategic Objective 2.5 by working with the Department, Congress, and other federal agencies and partners on legislative, regulatory, and policy developments. The Division’s multifaceted approach to civil rights work seeks to ensure that we address both existing and emerging civil rights challenges.



## CRT'S 2017 STRATEGIC FOCUS AREAS

**Ensure Constitutional Policing, Advance Criminal Justice Reform, and Combat Human Trafficking.** Through both criminal and civil enforcement, the Division will continue to prioritize its efforts to advance effective, constitutional, and accountable policing. In cities across the country – from Ferguson, to Baltimore, to Chicago – our pattern-or-practice investigations continue to examine whether policing practices effectively serve communities and productively support police officers. Through a variety of means – including enforcement, guidance, and litigation – the Division will continue to advance efforts that reform our criminal justice system with more just, more effective, and more efficient policies. In addition, we will continue to combat the scourge of human trafficking – where victims endure sexual assault, brutality, and fear, and perpetrators engage in criminal conduct that often involves international organized criminal networks. Prosecuting these cases presents unique challenges, as each requires a dedication of time, resources, and specialized skill in jurisdictions across the country and around the globe. Because we recognize the profound impact of these issues on public safety, we strive to expand these areas of our work in FY 2017.

**Promote Fair Lending and Fair Housing.** Access to housing influences a family's access to good schools, transportation, and jobs and correlates closely with access to credit. The Division has opened a number of investigations and filed numerous lawsuits seeking to expand fair housing and fair lending opportunities for all. In FY 2017, the Division will continue those efforts and seek new enforcement opportunities.

**Continuing Efforts to Protect Those Who Protect Us.** Servicemembers make tremendous sacrifices for our nation. When their duties call them far away from home, the Division stands ready to protect their rights, specifically with regard to employment, voting, and fair lending. Last year, the Division achieved significant victories in its efforts to ensure that our men and women in uniform have access to meaningful employment when they return home from war. The Division plans to continue this work in FY 2017.

**Protect the Rights of People with Disabilities.** The Division will continue to expand enforcement of the Supreme Court's decision in *Olmstead v. L.C.*, a landmark ruling that requires states to eliminate unnecessary segregation of persons with disabilities and, whenever appropriate, to serve them in the community rather than in segregated settings. The Division will pursue existing cases; ensure community services required by our settlement agreements remain readily available and of high quality; and through a combination of litigation, technical assistance, policy guidance, and interagency coordination, the Division will seek new opportunities to advance the rights of individuals in – and at risk of entering – institutions.

**Safeguard Voting Rights for All Americans.** The Division will continue to prioritize the protection of voting rights through efforts to detect and investigate voting practices that violate the federal laws it enforces, through affirmative litigation to enjoin such practices, and through monitoring of elections across the country each year. This includes detecting and challenging practices that violate Section 2 of the Voting Rights Act, the permanent nationwide prohibition against voting practices intended to impose racial discrimination or practices that have a racially discriminatory result.

**Protect LGBTI Individuals from Discrimination, Harassment, and Violence.** Across several sections and through both civil and criminal enforcement, the Division continues to vigorously protect the rights of LGBTI individuals to live free from discrimination, harassment, and violence. In education, employment, housing, policing practices, the juvenile justice system, and state and local institutions, LGBTI individuals of all ages face unique challenges. Even after the Supreme Court's landmark ruling on same-sex marriage in 2015, the LGBTI community continues to face painful challenges each day, and the Division stands ready to respond. In FY 2017 – through guidance, litigation, and enforcement – we strive to continue building on existing efforts and expand our work



to protect the dignity and safety of LGBTI individuals.

### **C. Priority Goals**

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The Civil Rights Division contributes to the Department's Vulnerable People Priority Goal, which states that the Department will "improve the federal response to the needs of vulnerable populations, specifically children, the elderly, and victims of human trafficking." The Division remains on track to exceed its performance targets in this area. The administration continues its aggressive investigation and prosecution of human trafficking cases in support of this goal, and the Division has led a number of initiatives that contribute to the restoration of the rights and dignity of human trafficking victims. Please refer to the Performance and Resources Tables for additional information.



## V. PROGRAM INCREASES BY ITEM

### A. POLICING AND CRIMINAL JUSTICE – PROTECTING THE RIGHTS OF CHILDREN, PEOPLE WITH DISABILITIES, AND PEOPLE IN INSTITUTIONS

Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law

Strategic Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices

Budget Decision Unit(s): Civil Rights Division

Organizational Program: Civil Rights Division

Program Increase:    Positions    24    Agt/Atty    17    FTE    12    Dollars    \$2,700,000

#### Description of Item

The Civil Rights Division's policing and criminal justice work encompasses a wide range of cases involving the rights of children and people with disabilities who interact with police and the justice system. Because of the profoundly influential effects that negative interactions with police and the justice system have on individuals and police-community relations, the Division seeks to expand these areas of its work. The request for \$2,700,000 will provide for 24 new positions, including 17 attorneys and 7 paralegals to provide the capacity to effectively address this expanded workload.

#### Justification

The Civil Rights Division already actively investigates and litigates cases involving the rights of children and individuals with disabilities to interact with law enforcement and the criminal justice system. With the combined growth in the Division's overall docket, the increased demand for action on cases involving interaction of individuals with police and the criminal justice system has outstripped the Division's available resources. On average, Division attorneys spend 6,000 hours on each large school-to-prison pipeline, juvenile justice, and corrections investigation or enforcement matter. From initiation to conclusion, these cases often take years to complete. While the workload requirements fluctuate over time, each matter requires a significant commitment of resources throughout.

#### Support of the Department's Strategic Goals and the Attorney General's Funding Priorities

This enhancement links to the FY 2014 – 2018 Strategic Plan, Goal 2: "Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices." Consistent with the Attorney General's Funding Priority for Vulnerable People, this enhancement emphasizes investigating and prosecuting civil rights violations as well as conducting outreach and technical assistance to law enforcement agencies and complainants.

The federal government has a compelling interest in establishing and maintaining trust in the country's public institutions, especially those vested with the mission to protect and defend its citizens. The Division's policing and criminal justice work aims to target discriminatory and unconstitutional conduct, while at the same time increasing community confidence in the police and improving public safety.



The additional positions funded through the program increase will allow the Division to enhance its multi-faceted approach to enforcement, specifically through improved performance capabilities in the Division's Special Litigation, Disability Rights, and Educational Opportunities Sections.

### ***Protecting the Rights of Children***

The school-to-prison pipeline has been aptly described as an epidemic that starts in the classroom. And increasingly, a teacher's decision to refer students for discipline can increase the likelihood that they leave the classroom and enter the criminal justice system. The Division pursues cases involving schools' decisions to have children suspended, sent to alternative settings, expelled, and arrested, as well as cases involving how juvenile courts, detention centers, and prisons treat children. Some of the Division's cases involve the arrest and incarceration of extremely young children. For example, in Meridian, Mississippi, across a host of due process violations, we found students suspended from school – and some later incarcerated in a juvenile detention facility – for behavior as mundane as dress code violations like wearing the wrong color socks or leaving their shirts untucked. These actions disproportionately impacted children of color and children with disabilities. The Division's other cases involve children in solitary confinement and other harsh penalties for children, particularly those with disabilities or LEP children.

Using the additional positions funded by this enhancement, the Division will prioritize investigation, litigation, and enforcement activities that explore novel issues of juvenile indigent defense, challenges to the school-to-prison pipeline, and race and disability discrimination in juvenile courts. To ensure that the Division attacks this systemic problem on all fronts, the Division will also prioritize creating internal resources to increase attorneys' capacity to pursue these cases, interagency coordination on enforcement, technical assistance and guidance, and outreach.

### ***Law Enforcement and the Rights of People with Disabilities***

For several years, the Division's work has highlighted the need for law enforcement agencies to take a different approach to interactions with people with disabilities, including those with mental illness. Poor interactions between police and people with disabilities can lead to the unnecessary use of force, often with tragic consequences. Community-based mental health treatment, such as assertive community treatment (ACT) or supported housing, and community supports for people with intellectual or developmental disabilities, often exist only sporadically across a state. As a result, local law enforcement must respond when behavioral crises occur. Even when community support services do exist, law enforcement often responds first in a crisis. Many officers lack the training they need to address mental health crises or the needs of people with intellectual disabilities. They may inadvertently escalate an interaction that initially did not involve criminal behavior. This imposes burdens on law enforcement officers, corrections officials, and individuals with disabilities.

The lack of community-based resources also results in jails becoming the de facto mental health treatment system in many communities and a primary institution that segregates people with disabilities. Serious mental illness affects an estimated 14.5 percent of men and 31 percent of women in jails – rates four to six times higher than in the general population. Similarly, 4-10 percent of the prison population has an intellectual disability, compared with only 2-3 percent of the general population. Some states have almost 10 times more people with serious mental illness in jails and prisons than in hospitals. With the goal of diverting individuals with serious mental illness or intellectual disabilities from the criminal justice system, the Division will investigate the interactions of police, jails, and people with disabilities.

The reforms we negotiated in our settlement agreement with the Portland, Oregon, Police Bureau (PPB) – particularly regarding the use of force against residents with actual or perceived mental



illness – present a prime example about the important impact of this work. In December 2014, *The Oregonian* reported on a police officer responding to an apparent burglary attempt but who instead found a man in behavioral distress on a fifth floor hotel room window ledge. The crisis intervention training mandated by the settlement agreement helped the officer calm the man down before paramedics transported him to a hospital for mental health treatment, according to the local news story.

Utilizing the additional resources from this enhancement, the Division will prioritize technical assistance to police departments and individual complainants. The Division will also seek new enforcement opportunities, as well as opportunities to file statements of interest to address the requirement to provide effective communication – including sign language interpreters – in the context of detention, arrest, and incarceration.

### ***Policing and Criminal Justice (Corrections)***

The Division seeks to expand its work protecting vulnerable individuals incarcerated or at risk of incarceration. The Division intends to expand investigation, litigation, and active enforcement in areas such as isolation of mentally ill prisoners; protecting prisoners, including women and youthful offenders, from sexual assault; protecting LGBTI prisoners from harm and ensuring that they receive adequate medical treatment; and vigorously pursuing enforcement of comprehensive consent decrees regarding conditions in correctional facilities that have serious systemic problems. In addition to pursuing its own cases, the Division plans to continue seeking additional opportunities to file statements of interest on cutting-edge correctional issues, and to engage in extensive outreach – both generally and on individual cases – about our corrections priorities. For example, last year, when the Georgia Department of Corrections terminated a transgender woman’s hormone therapy, confiscated her female clothing, and placed her in a male facility, we filed a statement of interest. Our statement of interest argued that freeze-frame policies prohibiting treatment beyond the care that a prisoner received prior to incarceration violate the Eighth Amendment’s ban on cruel and unusual punishment. Less than a week after our filing, the state abandoned its freeze-frame policy.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
80	57	72	\$16,651	80	57	72	\$16,674	80	57	72	\$17,133

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys -- (0905)	\$104	17	\$1,768	\$ 1,326
Paralegals (0900-0999)	61	7	427	245
Total Personnel		24	\$2,195	\$2,096

Non-Personnel Increase Cost Summary

Non-Personnel Item	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Litigation Support/Litigation Consultants	\$505	\$508

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Current Services	80	57	72	\$15,437	\$1,696	\$17,133	\$ 0
Increases	24	17	12	2,195	505	2,700	2,604
Grand Total	104	74	84	\$17,632	\$2,201	\$19,833	\$2,604

Affected Crosscuts

This program increase will be reported as part the Department of Justice's Civil Rights crosscut.



## **B. PROTECTING THE RIGHTS OF SERVICEMEMBERS**

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Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law  
 Strategic Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices  
 Budget Decision Unit(s): Civil Rights Division  
 Organizational Program: Civil Rights Division

Program Increase: Positions 5 Agt/Atty 3 FTE 3 Dollars \$587,000

### Description of Item

Servicemembers make tremendous sacrifices for our nation. When their duties call them away from home, the Division stands ready to protect their rights. The Division plans to expand its enforcement of three federal statutes that provide protections for servicemembers – the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), Uniformed Services Employment and Reemployment Rights Act (USERRA), and Servicemembers Civil Relief Act (SCRA).

The request for \$587,000 supports the Department’s capacity to effectively address this expanded workload.

### Justification

The Division’s request supports the Attorney General’s Servicemembers and Veterans Initiative. The Initiative is designed to further the Department’s existing efforts by coordinating and expanding enforcement, outreach, and training efforts on behalf of servicemembers, veterans, and their families. The Division’s request for additional resources to expand enforcement of the USERRA, SCRA, and UOCAVA supports the Initiative’s effort to address the unique challenges that servicemembers face while on active duty, that veterans face upon returning home, and that families face when a loved one is deployed overseas.

### Support of the Department’s Strategic Goals and the Attorney General’s Funding Priorities

This enhancement links to the FY 2014 – 2018 Strategic Plan, Goal 2: “Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices.” Consistent with the Attorney General’s Funding Priority for Vulnerable People, this enhancement emphasizes our investigations and prosecutions of civil rights violations.

The federal government has a compelling interest in protecting the rights of servicemembers. The Division vigorously enforces federal laws that provide servicemembers with the right to vote when stationed away from home, the right to return to civilian work after their military service, the right to live free from financial exploitation while on active duty, and the right to reasonable accommodation when they have a disability. Many servicemembers rely on the Division to bring cases where they otherwise could not find or afford private attorneys.

### ***Enforcement of Laws Protecting Servicemembers***

First, through its enforcement of the USERRA, the Division protects the rights of uniformed servicemembers to retain their civilian employment following absences due to military service obligations. It also provides that servicemembers shall not face discrimination because of their



military obligations. Our settlement with the Missouri National Guard (MNG), described earlier in this document, provides a key example of effective USERRA enforcement. In March 2015, we reached a settlement with the MNG, alleging that it had violated the USERRA rights of its dual service technicians by forcing them to resign their civilian employment prior to entering into active duty.

Second, we also enforce the SCRA, which provides for the temporary suspension of judicial and administrative proceedings and civil protections in areas including housing, credit, and taxes for military personnel on active duty. The Division has used this statute to protect deployed servicemembers from eviction and from having their belongings sold by self-storage companies. After a San Diego storage company auctioned off vintage and valuable car parts owned by a master chief petty officer deployed overseas in the U.S. Navy – while still collecting storage fees – the Division filed a lawsuit and crafted a settlement that provides thousands of dollars in relief.

Third, the Division also enforces the UOCAVA, which requires that states and territories allow servicemembers, their family members who are away from home, and U.S. citizens who reside outside the country, to register and vote absentee in federal elections. The Division's Voting Section has brought a number of UOCAVA enforcement actions against states, including in *United States v. State of Illinois*. In April 2015, a federal court approved an agreement between the Justice Department and Illinois officials to help ensure that military servicemembers, their family members, and U.S. citizens living overseas had an opportunity to participate fully in a special primary election and special election to fill a seat in the state's 18th Congressional District.

The additional positions funded through the program increase will allow the Division to enhance its enforcement of the USERRA, UOCAVA, and SCRA and will improve performance capabilities in its Employment Litigation, Housing and Civil Enforcement, and Voting Sections.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agg/ Atty	FTE	\$(000)	Pos	Agg/ Atty	FTE	\$(000)	Pos	Agg/ Atty	FTE	\$(000)
17	10	15	\$3,424	17	10	15	\$3,446	17	10	15	\$3,498

**Personnel Increase Cost Summary**

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys - (0905)	\$104	3	\$312	\$234
Paralegals (0900-0999)	61	2	122	70
Total Personnel		5	\$434	\$304

**Non-Personnel Increase Cost Summary**

Non-Personnel Item	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Litigation Support/Litigation Consultants	\$153	\$155

**Total Request for this Item**

	Pos	Agg/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Current Services	17	10	15	\$3,141	\$357	\$3,498	\$ 0
Increases	5	3	3	434	153	587	459
Grand Total	30	18	21	\$3,575	\$510	\$4,672	\$459

**Affected Crosscuts**

This program increase will be reported as part the Department of Justice's Civil Rights crosscut.



## C. PROTECTING THE RIGHTS OF PEOPLE WITH DISABILITIES

Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law  
 Strategic Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices  
 Budget Decision Unit(s): Civil Rights Division  
 Organizational Program: Civil Rights Division

Program Increase: Positions 7 Agt/Atty 4 FTE 4 Dollars \$983,000

### Description of Item

The Division takes a multi-faceted approach to implement the ADA, including through enforcement, technical assistance activities, and the issuance of regulations and guidance documents. The Division respectfully requests \$983,000 to provide the capacity to effectively address this expanded workload.

### Justification

The Civil Rights Division already actively investigates and litigates cases involving accessible technology, campus safety, and the employment rights of individuals with disabilities. The Division expects significant increases in these enforcement areas in FY 2017 and beyond. With increases in other enforcement areas, the Division does not have adequate resources to expand these enforcement areas without additional resources.

### Support of the Department's Strategic Goals and the Attorney General's Funding Priorities

This enhancement links to the FY 2014 – 2018 Strategic Plan, Goal 2: "Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; Objective 2.5: Promote and Protect American Civil Rights by Preventing and Prosecuting Discriminatory Practices." This enhancement is also consistent with the Attorney General's Funding Priority for Vulnerable People through its emphasis on investigating and prosecuting civil rights violations and its emphasis on technical assistance and outreach.

The federal government has a compelling interest in fulfilling the promise of the ADA to protect the rights of individuals with disabilities. The Division's disability rights and *Olmstead* enforcement work aims to combat discrimination, while at the same time provide technical assistance to individuals with disabilities, advocates, and institutions and organizations that interact with individuals with disabilities.

The additional positions funded through the program increase will allow the Division to enhance its multi-faceted approach to ADA enforcement in our Disability Rights and Educational Opportunities Sections.

### ***Ensuring Accessible Technology in Education and Accessible Websites and Mobile Applications***

The Division plans to continue expanding its enforcement work regarding accessible technologies, including websites, mobile sites and other technologies, such as touch screen payment devices and touch screen information kiosks. The Division intends to prioritize enforcement actions involving accessible technology in education, including building on the success of its recent efforts to ensure accessibility in Massive Open Online Courses (MOOCs) and online learning platforms for K-12 schools and universities. It also intends to prioritize enforcement actions involving accessibility of



websites and other technologies of public accommodations with a nexus to a physical location open to the public.

In addition, the Division plans to coordinate and oversee the development of ADA Technical Assistance Applications. To meet the ADA mandate that federal agencies with enforcement authority provide technical assistance to those with rights and responsibilities under the Act, the Division plans to develop a series of additional applications to address ADA topics both large and small. We hope to produce a series of applications on specific ADA rights and responsibilities and to make them available to anyone with a smart phone or tablet. For example, the Division plans to develop applications explaining how specific provisions of the ADA Standards for Accessible Design apply, how people with disabilities move within their environments, and something as simple as how a restaurant employee should respond when a customer with a service animal shows up.

### ***Mental Health Initiative: Post-Secondary Education***

Equal access to postsecondary education remains critical to fulfilling the promise of the ADA. In the 25 years since the law took effect, physical, programmatic, and other barriers have fallen and continue to fall at colleges and universities across the country. As a result, we see more students with disabilities – including students who self-identify as having mental health disabilities – on college campuses today than ever before. The Division recognizes the important interests at stake and the need to balance postsecondary institutions' legitimate interests in student health and safety with the civil rights of students with disabilities. Against this backdrop, the Division plans to prioritize interagency coordination on enforcement, technical assistance and guidance, and outreach to ensure that the federal government plays a central role in establishing clear, effective, and consistent standards in this area.

### ***Olmstead: Integrated Employment Task Force***

The Division has identified a number of opportunities to address policies in the integrated employment arena. Division staff participate in the Community Employment Working Group (CEWG), which includes representatives from multiple federal agencies. Several policy opportunities emanating from the CEWG will require additional staffing in the near and long term, including the following.

- *Implement the Workforce Innovation and Opportunities Act (WIOA).* The WIOA helps job applicants with disabilities access the services they need to succeed in employment. The Division will provide technical assistance on an ongoing basis as new regulations come out and as the Advisory Committee completes its reporting work.
- *Develop connections to business.* As a result of the Division's enforcement efforts, states are now required to expand opportunities for integrated employment. The Division will work to link these states with major employers interested in partnering to provide work opportunities for individuals with disabilities.

Additional staff will also allow the Division to pursue policymaking initiatives to better leverage federal dollars to promote integrated employment services for adults and integrated transition services for youth, including:

- Drafting a protocol for collaborative enforcement between the Department of Labor's (DOL)'s Wage and Hour Division and the Department of Justice (DOJ) on Title II of the Americans with Disabilities Act (ADA) and the Fair Labor Standards Act (FLSA);



- Developing joint DOJ-DOL trainings of national and field office staff;
- Working to ensure that the Centers for Medicare and Medicaid Services (CMS) and the Social Security Administration (SSA) provide technical assistance to states about Medicaid Buy-in and Ticket to Work programs to promote benefits planning;
- Revising the AbilityOne Program to use federal dollars to incentivize integrated settings or prevent people from unnecessarily going into the program without first being introduced to integrated alternatives; and
- Developing DOJ guidance on *Olmstead* and integrated employment or day service programs, highlighting best practices for ADA-compliant models.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
11	5	9	\$2,210	11	5	9	\$2,225	11	5	9	\$2,287

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Attorneys – (0905)	\$104	4	\$416	\$312
EO Specialist	69	1	69	43
Paralegals (0900-0999)	61	2	122	70
Total Personnel		7	\$607	\$425

Non-Personnel Increase Cost Summary

Non-Personnel Item	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Litigation Support/Litigation Consultants	\$376	\$382

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)
Current Services	11	5	9	\$1,696	\$591	\$2,287	\$ 0
Increases	7	4	4	607	376	983	807
Grand Total	18	9	12	\$2,303	\$967	\$3,270	\$807

Affected Crosscuts

This program increase will be reported as part the Department of Justice's Civil Rights crosscut.



## VI. APPENDIX

### DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION STATUTES ENFORCED

Statute	Enforcing Section	Type of Case
Official Misconduct, 18 U.S.C. §§ 241, 242	CRM	Section 242 makes it a crime for any person acting under color of law – using or abusing government authority – to willfully deprive any person of rights protected by the constitution or federal law. Section 241 is the civil rights conspiracy statute, applying to color-of-law violations committed by two or more people in concert.
The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009	CRM	The Shepard Byrd Act makes it a federal crime to willfully cause bodily injury, or attempt to do so using a dangerous weapon, because of actual or perceived race, color, religion, or national origin, and such crimes committed because of gender, sexual orientation, gender identity, or disability under certain circumstances. The Shepard-Byrd Act is the first statute allowing federal criminal prosecution of hate crimes committed because of sexual orientation or gender identity.
Federally Protected Activities, 18 U.S.C. § 245	CRM	This provision makes it a crime to use or threaten to use force to willfully interfere with any person because of race, color, religion, or national origin and because a person is involved in a federally protected activity, such as public education, employment, jury service, travel, or enjoyment of public accommodations.
Criminal Interference with Right to Fair Housing, 18 U.S.C. § 3631	CRM	This provision makes it a crime to use or threaten to use force to interfere with housing rights because of race, color, religion, sex, disability, familial status, or national origin.
Damage to Religious Property, 18 U.S.C. § 247	CRM	This criminal statute protects religious real property from being targeted for damage because of the religious nature of the property or because of the race, color, or ethnic characteristics of the people associated with the property. The statute also criminalizes the intentional obstruction by force or threatened force of any person in the enjoyment of religious beliefs.
Trafficking Victims Protection Act (TVPA)	CRM	The TVPA criminalizes the use of force, fraud, or coercion to compel a person to engage in labor, services, or commercial sex. The Division also enforces a number of related criminal statutes that address forced labor and commercial sex, peonage, and involuntary servitude.
Freedom of Access to Clinics Entrances Act (FACE)	CRM & SPL	The FACE Act protects the exercise of free choice in obtaining reproductive health services and the exercise of First Amendment religious freedoms. The law makes it a crime to intimidate a person obtaining or providing reproductive health services or to damage a facility for providing such services. The law also makes it a crime to damage a facility because it is a place of worship.
Criminal Protection for Voting Rights, 18 U.S.C. § 594	CRM	18 U.S.C. § 594 criminalizes the use of intimidation, threats or coercion to interfere with the right to vote in federal elections. The NVRA, 42 U.S.C. § 20511, criminalizes such interference with respect to voter registration.
Americans with Disabilities Act, Title I	DRS	Title I of the Americans with Disabilities Act prohibits private employers, state and local governments, employment agencies, and labor unions from discriminating against qualified individuals with disabilities in recruiting, hiring, termination, promotion, compensation, job training, and other terms,



		conditions, and privileges of employment.
Americans with Disabilities Act, Title II	DRS, EOS, & SPL	Title II of the Americans with Disabilities Act protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by state and local government entities.
Americans with Disabilities Act, Title III	DRS & EOS	Title III of the Americans with Disabilities Act protects qualified individuals with disabilities from discrimination with regards to use and enjoyment of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation. "Public accommodations" include stores, restaurants, hotels, inns, and other commercial spaces open to the public.
Rehabilitation Act of 1973	DRS & EOS	Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion, the denial of benefits, and discrimination by reason of disability in programs or activities receiving federal funds. Section 508 requires Federal electronic and information technology to be accessible to people with disabilities, including employees and members of the public.
Civil Rights Act of 1964, Title VII	ELS	Title VII of the Civil Rights Act makes it unlawful to discriminate against someone on the basis of race, color, national origin, sex (including pregnancy), or religion. The Act also makes it unlawful to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.
Uniformed Services Employment and Reemployment Rights Act (USERRA)	ELS	The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) seeks to ensure that servicemembers are entitled to return to their civilian employment upon completion of their military service. Servicemembers should be reinstated with the seniority, status, and rate of pay that they would have obtained had they remained continuously employed by their civilian employer.
Civil Rights Act of 1964, Title IV	EOS	Title IV of the Civil Rights Act prohibits discrimination on the basis of race, color, sex, religion, or national origin by public elementary and secondary schools and public institutions of higher learning.
Equal Education Opportunities Act of 1974 (EEOA)	EOS	Among other aspects of the statute, Section 1703(f) of the EEOA requires state educational agencies and school districts to take action to overcome language barriers that impede English Learner students from participating equally in school districts' educational programs.
Individuals with Disabilities in Education Act (IDEA)	EOS & SPL	The Individuals with Disabilities in Education Act (IDEA) requires states and local education agencies to provide free and appropriate public education to children with disabilities.
Civil Rights Act of 1964, Title VI	FCS, SPL, & EOS	Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
Education Amendments of 1972, Title IX	FCS & EOS	Title IX states that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.
Civil Rights Act of 1964, Title II	HCE	Title II prohibits discrimination in certain places of public accommodation, such as hotels, restaurants, nightclubs, and theaters.
Fair Housing Act (FHA)	HCE	The Fair Housing Act prohibits discrimination by direct providers of housing, such as landlords and real estate companies as well as other entities, such as municipalities, banks and other lending institutions and homeowners insurance companies whose discriminatory practices make housing unavailable to persons because of race or color, religion, sex, national origin, familial status, or disability.
Equal Credit Opportunity	HCE	The Equal Credit Opportunity Act (ECOA) prohibits creditors from



Act (ECOA)		discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, because an applicant receives income from a public assistance program, or because an applicant has in good faith exercised any right under the Consumer Credit Protection Act.
Religious Land Use and Institutionalized Persons Act (RLUIPA)	HCE & SPL	The Religious Land Use and Institutionalized Persons Act (RLUIPA) prohibits local governments from adopting or enforcing land use regulations that discriminate against religious assemblies and institutions or which unjustifiably burden religious exercise. It also requires that state and local institutions (including jails, prisons, juvenile facilities, and government institutions housing people with disabilities) not place arbitrary or unnecessary restrictions on religious practice.
Servicemembers Civil Relief Act (SCRA)	HCE	The Servicemembers Civil Relief Act (SCRA) provides protections in housing, credit, and taxes for military members who are on active duty. It also temporarily suspends judicial and administrative proceedings while military personnel are on active duty.
Immigration and Nationality Act § 274B	OSC	This section of the Immigration and Nationality Act (INA) prohibits: 1) citizenship status discrimination in hiring, firing, or recruitment or referral for a fee; 2) national origin discrimination in hiring, firing, or recruitment or referral for a fee; 3) document abuse (unfair documentary practices) during the employment eligibility verification process; and 4) retaliation or intimidation.
Civil Rights of Institutionalized Persons Act (CRIPA)	SPL	The Civil Rights of Institutionalized Persons Act (CRIPA) protects the rights of people in state or local correctional facilities, nursing homes, mental health facilities, and institutions for people with intellectual and developmental disabilities.
Violent Crime Control and Law Enforcement Act § 14141	SPL	Section 14141 of the Violent Crime Control and Law Enforcement Act prohibits law enforcement officials or government employees involved with juvenile justice from engaging in a pattern-or-practice of deprivation of constitutional rights, privileges, and immunities.
Omnibus Crime and Safe Streets Act	SPL	The Omnibus Crime Control and Safe Streets Act of 1968 prohibits discrimination on the ground of race, color, religion, national origin, or sex by law enforcement agencies receiving federal funds.
Voting Rights Act	VOT	The Voting Rights Act of 1965 protects every American against racial discrimination in voting. This law also protects the voting rights of many people who have limited English skills. It stands for the principle that everyone's vote is equal, and that neither race nor language should shut any of us out of the political process.
Voting Accessibility for the Elderly and Handicapped Act	VOT & DRS	The Voting Accessibility for the Elderly and Handicapped Act of 1984 generally requires polling places across the United States to be physically accessible to people with disabilities for federal elections.
Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)	VOT	The Uniformed and Overseas Citizens Voting Act (UOCAVA) requires that the states and territories allow certain U.S. citizens who are away from their homes, including members of the uniformed services and the merchant marine, their family members, and U.S. citizens who are residing outside the country, to register and vote absentee in federal elections.
National Voter Registration Act (NVRA)	VOT (civil provisions)	The National Voter Registration Act (NVRA) requires states to make voter registration opportunities for federal elections available through the mail and when people apply for or receive driver licenses, public assistance, disability services, and other government services, and also imposes certain requirements for maintaining voter registration lists.
Genetic Information Nondiscrimination Act	DRS	The Genetic Information Nondiscrimination Act (GINA) prohibits employers from using genetic information in making employment decisions,



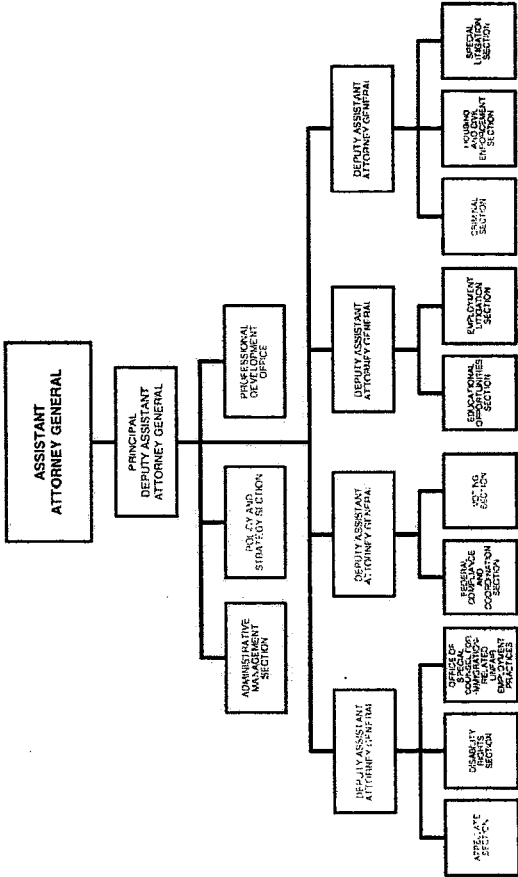
(GINA), Title II		restricts the acquisition of genetic information by employers and other entities covered by Title II, and strictly limits the disclosure of genetic information.
Help America Vote Act (HAVA)	VOT	The Help America Vote Act (HAVA) requires states to follow certain minimum standards in the conduct of federal elections, in areas such as voting system standards, statewide voter registration databases, provisional ballots, identifying first time registrants by mail, and voter information postings.
Civil Rights Acts of 1870, 1957, 1960, & 1964	VOT (civil provisions)	The Civil Rights Acts include protections against discrimination and intimidation in voting and also authorize the Attorney General to seek elections records.



A: Organizational Chart

<http://www.justice.gov/impd/imp/manual/crt.htm>

CIVIL RIGHTS DIVISION



Approved by  Date April 22, 2010  
ERIC H. HOLDER, JR.  
Attorney General



B. Summary of Requirements

**Summary of Requirements**

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	<b>714</b>	<b>565</b>	<b>147,239</b>
<b>Total 2015 Enacted</b>	<b>714</b>	<b>565</b>	<b>147,239</b>
<b>2016 Enacted</b>	<b>714</b>	<b>606</b>	<b>148,239</b>
<b>Base Adjustments</b>			
Pay and Benefits	0	0	1,040
Domestic Rent and Facilities	0	0	2,072
<b>Total Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>3,112</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>3,112</b>
<b>2017 Current Services</b>	<b>714</b>	<b>606</b>	<b>151,351</b>
<b>Program Changes</b>			
Increases:			
Policing and Criminal Justice	24	12	2,700
Protecting the Rights of Servicemembers	5	3	587
Protecting the Rights of People with Disabilities	7	4	983
Subtotal, Increases	36	19	4,270
<b>Total Program Changes</b>	<b>36</b>	<b>19</b>	<b>4,270</b>
<b>2017 Total Request</b>	<b>750</b>	<b>625</b>	<b>155,621</b>
<b>2016 - 2017 Total Change</b>	<b>36</b>	<b>19</b>	<b>7,382</b>

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Civil Rights Enforcements	714	565	147,239	714	606	148,239		0	3,112	714	606	151,351
<b>Total Direct</b>	<b>714</b>	<b>565</b>	<b>147,239</b>	<b>714</b>	<b>606</b>	<b>148,239</b>		<b>0</b>	<b>3,112</b>	<b>714</b>	<b>606</b>	<b>151,351</b>
Balance Rescission				0			0		0			0
<b>Total Direct with Rescission</b>												
Reimbursable FTE		38	147,239		93	148,239		0	3,112		93	151,351
<b>Total Direct and Reimb. FTE</b>		<b>603</b>			<b>699</b>			<b>0</b>			<b>699</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		4			4			0			4	
<b>Grand Total, FTE</b>		<b>607</b>			<b>703</b>			<b>0</b>			<b>703</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Civil Rights Enforcements	36	19	4,270	0	0	0	750	625	155,621
<b>Total Direct</b>	<b>36</b>	<b>19</b>	<b>4,270</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>750</b>	<b>625</b>	<b>155,621</b>
Balance Rescission				0					0
<b>Total Direct with Rescission</b>									
Reimbursable FTE		0	4,270		-17			76	155,621
<b>Total Direct and Reimb. FTE</b>		<b>19</b>			<b>-17</b>			<b>701</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			4	
<b>Grand Total, FTE</b>		<b>19</b>			<b>-17</b>			<b>705</b>	



**FY 2017 Program Increases/Offsets by Decision Unit**

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Civil Rights Enforcements				Total Increases			
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE	Amount
Policing and Criminal Justice	37	24	17	12	2,700	24	17	12	2,700
Protecting the Rights of Servicemembers	41	5	3	3	587	5	3	3	587
Protecting the Rights of People with Disabilities	44	7	4	4	983	7	4	4	983
Total Program Increases		36	24	19	4,270	36	24	19	4,270

Program Offsets	Location of Description by Program Activity	Civil Rights Enforcements				Total Offsets			
		Direct	Agt./Atty.	Est. FTE	Amount	Direct	Agt./Atty.	Est. FTE	Amount
No Program Offsets									
Total Program Offsets									



D. Resources by DOJ Strategic Goal and Strategic Objective	Resources by Department of Justice Strategic Goal and Objective
	Civil Rights Division
	Salaries and Expenses
	(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted		FY 2016 Enacted		FY 2017 Current Services		FY 2017 Increases		FY 2017 Offsets		FY 2017 Total	
	Direct & Reimb FTE	Direct Reimb Amount	Direct & Reimb FTE	Direct Reimb Amount	Direct & Reimb FTE	Direct Reimb Amount	Direct & Reimb FTE	Direct Reimb Amount	Direct & Reimb FTE	Direct Reimb Amount	Direct & Reimb FTE	Direct Reimb Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law 2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices.	603	147,239	699	148,239	699	151,351	19	4,270	-17	0	701	155,621
	603	147,239	699	148,239	699	151,351	19	4,270	-17	0	701	155,621
	603	147,239	699	148,239	699	151,351	19	4,270	-17	0	701	155,621
Subtotal, Goal 2	603	147,239	699	148,239	699	151,351	19	4,270	-17	0	701	155,621
TOTAL	603	147,239	699	148,239	699	151,351	19	4,270	-17	0	701	155,621



## Justifications for Technical and Base Adjustments

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
<b>1 2017 Pay Raise - 1.6%</b> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2016. The amount requested, \$1,293,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$954,000 for pay and \$339,000 for benefits.)	0	0	1,293
<b>2 Annualization of 2016 Pay Raise</b> This pay annualization represents first quarter amounts (October through December) of the 2015 pay increase of 1.0 percent included in the 2015 President's Budget. The amount requested \$317,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$223,000 for pay and \$94,000 for benefits).	0	0	317
<b>3 Changes in Compensable Days</b> The increased cost for two compensable days in FY 2016 compared to FY 2015 is calculated by dividing the FY 2015 estimated personnel compensation of \$84,997,000 and applicable benefits of \$20,454,000 by 262 compensable days multiplied by the two additional days.	0	0	-805
<b>4 Employees Compensation Fund</b> The -\$10,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	-10
<b>5 Health Insurance</b> Effective January 2016, the component's contribution to Federal employees' health insurance increases by 2.9 percent. Applied against the 2015 estimate of \$6,758,620 the additional amount required is \$196,000.	0	0	196
<b>6 Retirement</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 1.3 percent per year. The requested increase of \$49,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	49
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>1,040</b>



**Justifications for Technical and Base Adjustments**  
Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$49,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	49
<b>2 Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$35,000 is required to meet these commitments.	0	0	35
<b>3 Moves - FY 2017</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	0	0	1,988
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	2,072
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	3,112



**Crosswalk of 2015 Availability**  
Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Pos.		Direct Pos.	Actual FTE	Amount
Civil Rights Enforcements	714	565	147,239	0	0	1,155	751	714	525	714	565	149,670
<b>Total Direct</b>	<b>714</b>	<b>565</b>	<b>147,239</b>	<b>0</b>	<b>0</b>	<b>1,155</b>	<b>751</b>	<b>714</b>	<b>525</b>	<b>714</b>	<b>565</b>	<b>149,670</b>
Balance Recission			-1,172			0			0			-1,172
Total Direct with Recission												
Reimbursable FTE		38	148,067		0				525		38	148,498
Total Direct and Reimb. FTE		603			0						603	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		4			0						4	
<b>Grand Total, FTE</b>		<b>607</b>			<b>0</b>						<b>607</b>	

**Reprogramming/Transfers:**

Funding of \$1.155M was reallocated from GLA's ALS account to the Civil Rights Division's ALS account.

**Carryover:**

Funds were carried over into FY 2015 from GLA's 2014 no-year account.

**Recoveries/Refunds:**

Direct recoveries from the Civil Rights Division's no-year ALS accounts totals \$525 thousand.

**Balance Recission**

A \$10M unobligated balance rescission was spread among the GLA components' carryover funding.



**Crosswalk of 2016 Availability**

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Civil Rights Enforcements	714	606	148,239	0	0	0	3,912	0	714	606	152,151
<b>Total Direct</b>	<b>714</b>	<b>606</b>	<b>148,239</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,912</b>	<b>0</b>	<b>714</b>	<b>606</b>	<b>152,151</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			148,239			0	3,912	0			152,151
Reimbursable FTE		93			0					93	
<b>Total Direct and Reimb. FTE</b>		<b>699</b>			<b>0</b>					<b>699</b>	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		4			0					4	
<b>Grand Total, FTE</b>		<b>703</b>			<b>0</b>					<b>703</b>	

**Carryover:**

Funds were carried over into FY 2016 from GLA's 2015 no-year account.



### Summary of Reimbursable Resources

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Bureau of Alcohol, Tobacco, Firearms and Explosives	0	0	178	0	0	200	0	0	200	0	0	0
Community Relations Service	0	0	0	0	0	5	0	0	5	0	0	0
Department of Justice (Justice Management Division)	0	0	3,194	25	21	8,360	21	18	8,360	-4	-3	0
Department of Health and Human Services	19	19	5,961	41	60	14,115	41	46	10,500	0	-14	-3,315
Department of Homeland Security	0	0	31	0	0	32	0	0	32	0	0	0
Drug Enforcement Administration	0	0	104	0	0	130	0	0	130	0	0	0
Executive Office for Immigration Review	0	0	22	0	0	35	0	0	35	0	0	0
Federal Bureau of Investigation	0	0	536	0	0	500	0	0	500	0	0	0
Federal Prison System	10	10	862	10	10	1,150	10	10	1,150	0	0	0
National Security Division	0	0	225	0	0	200	0	0	200	0	0	0
Office of Attorney Recruitment/Management	0	0	2	0	0	7	0	0	7	0	0	0
Office of Justice Programs	0	0	237	0	2	238	0	2	238	0	0	0
Office of the Inspector General	0	0	14	0	0	10	0	0	10	0	0	0
U.S. Attorneys	0	0	325	0	0	288	0	0	288	0	0	0
U.S. Marshals Services	0	0	204	0	0	145	0	0	145	0	0	0
<b>Budgetary Resources</b>	<b>29</b>	<b>29</b>	<b>11,904</b>	<b>76</b>	<b>93</b>	<b>25,415</b>	<b>72</b>	<b>76</b>	<b>22,100</b>	<b>-4</b>	<b>-17</b>	<b>-3,315</b>
<b>Obligations by Program Activity</b>												
<b>2015 Actual</b>												
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Civil Rights Enforcements	29	38	11,904	76	93	25,415	72	76	22,100	-4	-17	-3,315
<b>Budgetary Resources</b>	<b>29</b>	<b>38</b>	<b>11,904</b>	<b>76</b>	<b>93</b>	<b>25,415</b>	<b>72</b>	<b>76</b>	<b>22,100</b>	<b>-4</b>	<b>-17</b>	<b>-3,315</b>

Note: The Reimbursable resources here include Health Care Fraud resources funded through direct collections that are elsewhere shown as direct resources. The Health Care Fraud resources are presented here to indicate that these positions, FTE, and amounts are not funded through DOJ direct appropriations.



I. Detail of Permanent Positions by Category

**Detail of Permanent Positions by Category**

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request			Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	Total Direct Pos.	
Miscellaneous Operations (001-099)	7	0	7	0	0	0	0	7	0
Social Science, Psychology, Welfare (0100-0199)	19	0	19	5	0	0	0	19	5
Personnel Management (0200-0260)	11	0	11	0	0	0	0	11	0
Clerical and Office Services (0300-0399)	151	5	151	7	0	1	0	152	6
Accounting and Budget (500-599)	7	0	7	0	0	0	0	7	0
Architects	10	0	10	0	0	0	0	10	0
Paralegals / Other Law (900-998)	102	0	102	0	0	0	0	102	0
Attorneys (905)	383	24	383	64	0	11	0	394	61
Information & Arts (1000-1099)	3	0	3	0	0	24	0	27	0
Mathematics and Statistics Group	3	0	3	0	0	0	0	3	0
Information Technology Maint (2210-2299)	18	0	18	0	0	0	0	18	0
<b>Total</b>	<b>714</b>	<b>29</b>	<b>714</b>	<b>76</b>	<b>0</b>	<b>36</b>	<b>0</b>	<b>750</b>	<b>72</b>
Headquarters Washington D.C.	714	29	714	76	0	36	0	750	72
US Fields	0	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>714</b>	<b>29</b>	<b>714</b>	<b>76</b>	<b>0</b>	<b>36</b>	<b>0</b>	<b>750</b>	<b>72</b>



**Financial Analysis of Program Changes**  
Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Civil Rights Enforcements				Total Program Changes	
	Program Increases		Program Decreases			
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-14	24	2,953	0	0	24	2,953
GS-11	1	73	0	0	1	73
GS-9	11	660	0	0	11	660
Total Positions and Annual Amount	36	3,686	0	0	36	3,686
Lapse (-)	-17	-1,844	0	0	-17	-1,844
11.5 - Other personnel compensation		0		0		0
Total FTEs and Personnel Compensation	19	1,842	0	0	19	1,842
12.1 - Civilian personnel benefits		554		0		554
21.0 - Travel and transportation of persons		129		0		129
22.0 - Transportation of things		14		0		14
23.3 - Communications, utilities, and miscellaneous charges		79		0		79
24.0 - Printing and reproduction		3		0		3
25.2 - Other services from non-federal sources		1,061		0		1,061
25.3 - Other goods and services from federal sources		294		0		294
25.6 - Medical care		1		0		1
26.0 - Supplies and materials		12		0		12
31.0 - Equipment		281		0		281
Total Program Change Requests	19	4,270	0	0	19	4,270



### Summary of Requirements by Object Class

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Ad. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	565	62,678	606	63,421	625	65,772	19	2,351
11.3 - Other than full-time permanent	0	8,869	0	8,916	0	8,974	0	58
11.5 - Other personnel compensation	4	870	4	870	4	870	0	0
Overtime	4	0	4	0	4	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.9 - Special personal services payments	0	207	0	207	0	207	0	0
Total	569	72,622	610	73,414	629	75,823	19	2,409
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		21,061		21,268		22,296		1,027
13.0 - Benefits for former personnel		27		27		27		0
21.0 - Travel and transportation of persons		3,650		3,650		3,779		129
22.0 - Transportation of things		657		657		671		14
23.1 - Rental payments to GSA		17,423		17,423		17,472		49
23.2 - Rental payments to others		380		380		380		0
23.3 - Communications, utilities, and miscellaneous charges		2,429		2,429		2,508		79
24.0 - Printing and reproduction		99		99		102		3
25.1 - Advisory and assistance services		3,945		3,945		3,945		0
25.2 - Other services from non-federal sources		17,464		16,273		17,334		1,061
25.3 - Other goods and services from federal sources		3,418		11,216		7,633		-3,583
25.4 - Operation and maintenance of facilities		202		202		202		0
25.5 - Medical care		59		59		60		1
25.7 - Operation and maintenance of equipment		107		107		107		0
26.0 - Supplies and materials		396		396		408		12
31.0 - Equipment		600		600		881		281
32.0 - Land and structures		0		0		1,988		1,988
42.0 - Insurance Claims and Indemnities		5		5		5		0
<b>Total Obligations</b>		<b>144,544</b>		<b>152,151</b>		<b>155,621</b>		<b>3,470</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-751		-3,912		0		3,912
Transfers/Reprogramming		-1,155		0		0		0
Recoveries/Refunds		-525		0		0		0
Balance Rescission		1,172		0		0		0
Unobligated End-of-Year, Available		3,912		0		0		0
Unobligated End-of-Year, Expiring		42		0		0		0
<b>Total Direct Requirements</b>		<b>147,239</b>		<b>148,239</b>		<b>155,621</b>		<b>7,382</b>
Reimbursable FTE	38		93		76		-17	0
Full-Time Permanent								

Direct FTE and obligations: here do not include Health Care Fraud resources

The Reimbursable resources here include Health Care Fraud resources funded through direct collections that are elsewhere shown as direct resources. The Health Care Fraud resources are presented here to indicate that these positions, FTE, and amounts are not funded through DOJ direct appropriations.



## Civil Rights Division

### Salaries and Expenses (Dollars in Thousands)

#### Status of Congressionally Requested Studies, Reports, and Evaluations

1. Committee Report associated with the FY 2014 Consolidated Appropriations Act, page 37, directs the Civil Rights Division to initiate a review of Federal and State laws, policies and regulations regarding criminal and civil commitment cases involving people living with HIV/AIDS, and to make best practice recommendations to ensure such policies do not place unique or additional burdens on people living with HIV/AIDS and reflect contemporary understanding of HIV transmission routes and associated benefits of treatment.

The Civil Rights Division submitted the report *Best Practices Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically-Supported Factors* on July 21, 2014.



INTERNATIONAL CRIMINAL POLICE ORGANIZATION (INTERPOL)

## **INTERPOL WASHINGTON**

U.S. NATIONAL CENTRAL BUREAU

U.S. DEPARTMENT OF JUSTICE (DOJ)  
WASHINGTON, D.C.

**FY 2017 PERFORMANCE BUDGET**



**CONGRESSIONAL SUBMISSION**



## Table of Contents

<b>I. Overview for INTERPOL Washington, the U.S. National Central Bureau.....</b>	<b>1</b>
<b>II. Summary of Program Changes .....</b>	<b>7</b>
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	<b>8</b>
<b>IV. Program Activity Justification .....</b>	<b>9</b>
A. INTERPOL Washington .....	9
1. Program Description.....	9
2. Program and Resource Tables .....	10
3. Performance, Resources, and Strategies.....	12
<b>V. Program Increases by Item .....</b>	<b>17</b>
A. Item Name: INTERPOL Washington Operations .....	17
B. Item Name: INTERPOL Washington IT Expansion Initiative.....	24
<b>VI. Program Offsets by Item.....</b>	<b>30</b>
<b>VII. Exhibits .....</b>	<b>30</b>
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases / Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations ( <b>Not Applicable</b> )	
M. Senior Executive Service Reporting ( <b>Not Applicable</b> )	



## **I. Overview for INTERPOL Washington, the U.S. National Central Bureau**

### **A. Introduction**

In Fiscal Year (FY) 2017, INTERPOL Washington, the U.S. National Central Bureau, requests a total of **\$36,860,000, 70 FTE and 79 direct positions** to prevent crime, enforce federal laws, and prevent terrorism. This request includes an Adjustment-to-Base (ATB) increase of \$393,000 and programmatic increases of \$3,030,000. With these resources, INTERPOL Washington will maintain its current level of services while continuing its efforts to unite domestic law enforcement intelligence databases and connect this critical network securely to the vast international intelligence network to which INTERPOL Washington has sole access.

### **B. Background**

INTERPOL Washington, the United States National Central Bureau, is the statutorily-designated representative to the International Criminal Police Organization (INTERPOL) on behalf of the Attorney General. As such, it is the official U.S. Point of Contact in INTERPOL's world-wide, police to police communications and criminal intelligence network. INTERPOL Washington is co-managed by the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS) pursuant to a Memorandum of Understanding that ensures a continuing commitment to the guidance and oversight of the organization and reinforces its role in effectively sharing and exchanging international criminal investigative intelligence and humanitarian assistance information. Consequently, its mission encompasses a broad spectrum of activities and responsibilities that support the effective administration of justice and security of the homeland – an end-state that fully reflects the Administration's strategic approach to combating transnational criminal threats. In carrying out these wide-ranging responsibilities, INTERPOL Washington utilizes a highly integrated, multi-sector workforce that includes analysts and agents detailed from both DOJ and DHS, as well as other Federal, State Local and Tribal agencies, including: the FBI, DEA, U.S. Marshals Service, Immigration and Customs Enforcement, United States Citizenship and Immigration Services and the United States Secret Service, among others.

As the National Central Bureau for the United States, INTERPOL Washington is authorized unrestricted access to INTERPOL's secure, encrypted communications network, as well as its entire array of investigative databases. Populated with millions of records contributed by INTERPOL's 190 member countries, these databases contain vital investigative intelligence on international fugitives; stolen and lost travel documents; stolen administrative documents; missing persons; unidentified bodies; images of child sexual abuse, and other matters of investigative interest. This capability facilitates law enforcement interaction in real time on investigative matters ranging from simple criminal history checks to the sharing of sensitive criminal intelligence and investigative leads targeting transnational organized crime groups.

In addition, INTERPOL Washington is *exclusively* responsible for securing the publication of INTERPOL Notices – a system of international lookouts or advisories used to assist law enforcement authorities in locating fugitives, identifying suspects, and other investigative purposes – on behalf of U.S. law enforcement agencies, and for ensuring that such Notices published on behalf of other member countries are entered and maintained in U.S. indices including the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) and the Department of Homeland Security's TECS. It also supports the exchange of international humanitarian



assistance requests involving such matters as threatened suicides, death notifications, and health and welfare checks on U.S. citizens overseas, as well as foreign nationals in the U.S.

Operating 24/7/365, INTERPOL Washington is the primary nexus between domestic and foreign law enforcement and border security agencies and as such is solely dedicated and equipped to assist the more than 18,000 U.S. law enforcement agencies and their foreign counterparts in overcoming the very real cultural, linguistic, and legal barriers that complicate the exchange of criminal investigative intelligence and support across national administrations and boundaries – including situations where there is no alternative police communication channel for U.S. authorities. Even for U.S. law enforcement agencies with a well-developed international criminal investigative presence, INTERPOL Washington’s services are complementary, not competitive or duplicative.

In all instances, INTERPOL Washington serves to coordinate U.S. law enforcement actions and responses, ensuring that it is consistent with U.S. interests and law, as well as INTERPOL policies, procedures, and regulations. This includes strict adherence to Article 3 of the INTERPOL Constitution, which expressly forbids the Organization to “...undertake any intervention or activities of a political, military, religious or racial character.”

### C. Full Program Costs

INTERPOL Washington is one decision unit, and all requested funds sustain operations that support DOJ’s key priorities, as well as those of DHS and INTERPOL. Therefore, each performance objective is linked with the costs of critical strategic actions that necessarily reflect the diverse requirements of all three organizations. Moreover, through its on-going communications with its domestic and foreign counterparts, INTERPOL Washington continues to identify service gaps and emerging needs that will require additional investment.

Figure 1 & Figure 2 below show the proportion of annual appropriations broken into Dues, Non-Discretionary and Discretionary Spending. Both performance and resource tables define the total cost of achieving the strategies INTERPOL Washington will implement in FY 2017.

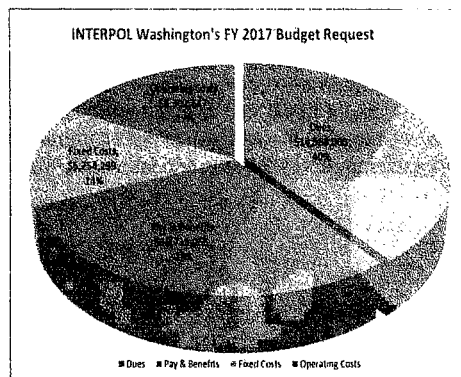


Figure 1

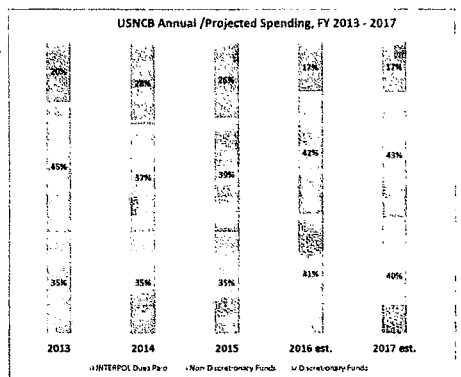


Figure 2



## D. Challenges

The Administration's *National Security Strategy* explicitly recognizes that transnational crime is a serious and growing threat to public safety and national security. Similarly, the *Worldwide Threat Assessment of the US Intelligence Community* cites transnational organized crime as "...a global, persistent threat to our communities at home and our interests abroad. Savvy, profit-driven criminal networks traffic in drugs, persons, wildlife, and weapons; corrode security and governance; undermine legitimate economic activity and the rule of law; cost economies important revenue; and undercut US development efforts."<sup>[1]</sup> Of particular concern, both documents point to an increasing convergence between transnational crime and terrorism. In order to combat these threats, the United States government is seeking to integrate elements from within the homeland security and national security mission spaces into a whole-of-government approach designed to disrupt, defeat, and dismantle transnational criminal and terrorist organizations.<sup>[2]</sup>

The challenges that impede progress toward achieving the strategic goals of DOJ and DHS are complex and ever-changing. Developments in technology, enforcement priorities, and shifting patterns of criminal behavior are only a few factors that impact law enforcement practices and pose challenges that demand attention. The following challenges are among those that INTERPOL Washington views as highly significant, and as having the greatest potential to impact its budget, operations, and resources.

### External Challenges:

#### **Balancing Reduced Funding with Increased Demand**

INTERPOL Washington, as with other organizations throughout the entire Federal Government, continues to face funding and resource challenges. The economic environment and the subsequent impact of tightened budgets have placed pressures on all federal agencies. INTERPOL Washington is committed to the Administration's efforts to cut waste in spending and to identify opportunities to promote efficient spending. In FY 2017, INTERPOL Washington faces the challenge of responding to an increasing demand for our services while adhering to economic realities, constricted budgets, and efforts to reduce overall government spending.

The unprecedented growth of transnational criminal and terrorist organizations has created a corresponding demand for international law enforcement cooperation and timely access to law enforcement intelligence worldwide. Consequently, INTERPOL Washington's requirement to respond to all requests for assistance from its domestic and international law enforcement partners continues to place substantial and increasing demands on its fiscal and operational resources. INTERPOL Washington anticipates that the volume of requests for assistance will continue to increase as its outreach efforts and information technology initiatives develop and take hold. Some examples are listed below:

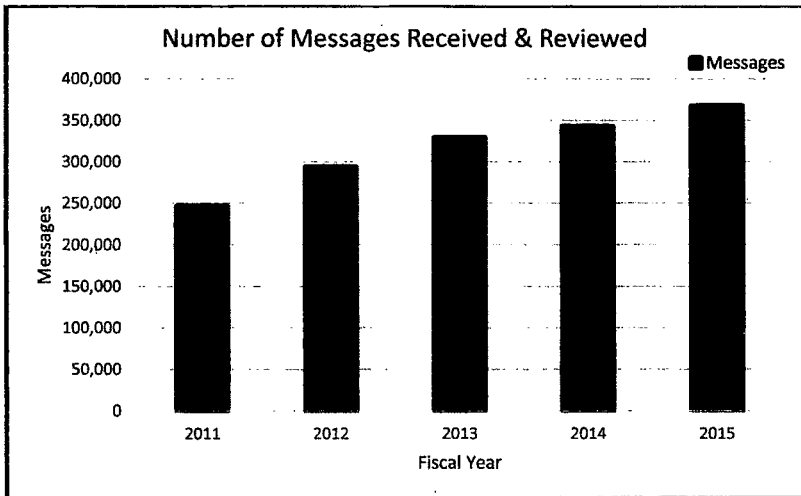
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<sup>[1]</sup> Unclassified Statement for the Record on the *Worldwide Threat Assessment of the US Intelligence Community* for the Senate Select Committee on Intelligence, James R. Clapper, Director of National Intelligence, February 26, 2015

<sup>[2]</sup> *National Security Strategy*, p.15



- Increased awareness and usage of INTERPOL databases has led to significant increases in message traffic across the network resulting in increases in new cases year after year (Figure 3).



**Figure 3**

- INTERPOL Washington's aggressive outreach efforts have significantly increased availability of INTERPOL databases to domestic law enforcement agencies. In 2014, U.S. law enforcement authorities accounted for more than 366 million queries against INTERPOL databases. As of calendar year (CY) 2015, INTERPOL Washington has facilitated the processing of 446 million queries. This is an increase of 21 percent more queries (78.5 million) than the number of queries run in CY 2014 (367.5 million).
- INTERPOL Washington has partnered with the National Center for Missing and Exploited Children (NCMEC) in an initiative to distribute investigative leads via INTERPOL's *i-24/7* network regarding foreign hosted child pornography discovered by U.S. based Electronic Service Providers. Following a pilot program, INTERPOL Washington began full-scale distribution of investigative leads in May 2014. As of December 31, 2015, in excess of 1.11 million leads have been distributed to approximately 140 remaining INTERPOL member countries not currently serviced by a NCMEC or DHS VPN.
- INTERPOL Washington submitted over 40,000 images to the FBI "FACE" team for additional screening of INTERPOL Notices and Diffusions by facial recognition.
- INTERPOL's Headquarters in Lyon ceased translating notices and diffusions from French and Spanish into English. As a consequence, INTERPOL Washington has absorbed the cost of translating diffusions, notices, and other INTERPOL message traffic. INTERPOL Washington detailed in contractors to translate over 1,000 cases coming into INTERPOL Washington in languages other than English so the intelligence and information could be disseminated to the appropriate domestic law enforcement agencies.



- INTERPOL Washington receives no funding from participating agencies for operating expenses (such as guard service, telecommunication, equipment, and supply expenses) for their detailed personnel.

#### Funding U.S. Dues to the INTERPOL Organization

In October 2013, the INTERPOL General Assembly (GA) adopted a new model for the distribution of statutory contributions among INTERPOL member countries. This new scale incorporates the economic performance of member countries by averaging the INTERPOL scale and the United Nation's scale. The United Nation's scale includes various economic indicators including, Gross Domestic Product (GDP). Under the new dues structure, not only will the United States continue to pay the largest percentage but our contribution percentage will escalate markedly from 17.4 percent in 2014 to 19.4 percent by 2017 (Figure 4).

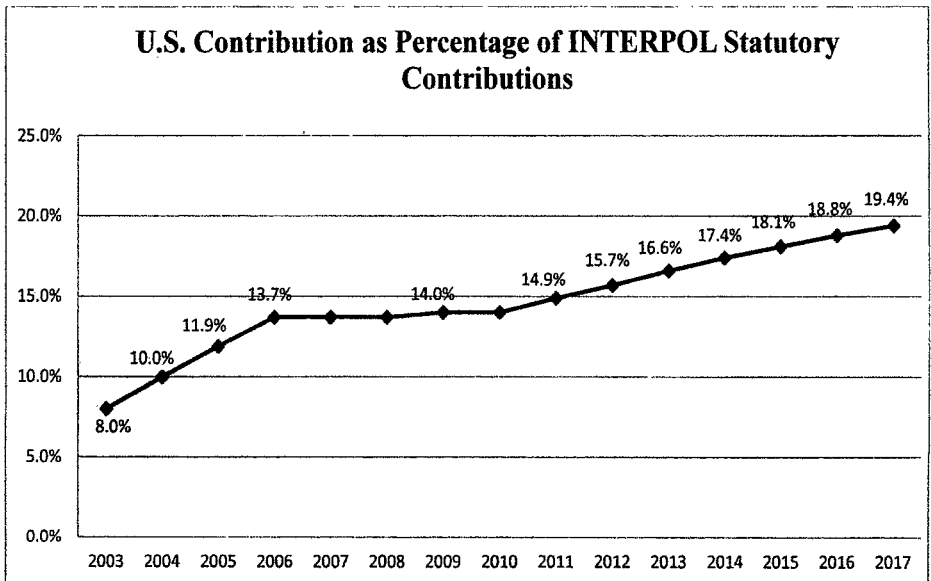


Figure 4

The U.S. dues contribution is paid in Euros (€) from INTERPOL Washington's budget, and has increased from €1.23 million in 2001 to €10.89 million or \$14.6 million USD in 2017. The estimated dues contribution, as paid in U.S. dollars in 2017 represents **40 percent** of INTERPOL Washington's annual budget (requested). (Refer back to Figure 1 on page 2). Moreover, the newly adopted scale will continue to raise the U.S. dues contribution annually. INTERPOL has indicated that it will seek additional annual increases to its budget to fund inflationary costs. The budgetary effect of these annual increases may be further compounded by the fluctuating value of the U.S. dollar relative to the Euro, which impacts INTERPOL Washington's ability to pay its dues commitment at either an advantageous or disadvantageous rate of exchange.



### **Internal Challenges:**

INTERPOL Washington faces many internal challenges in FY 2017, primarily in regards to its analytical capacity and Information Technology (IT) infrastructure. These challenges also present INTERPOL Washington with considerable risks, such as an over-reliance on contractors in key analytical and IT positions. This practice makes INTERPOL Washington susceptible to factors such as annual contract renewals, and the challenges are exacerbated by an increase in the volume of information and data received from foreign and domestic law enforcement partners as a result of outreach efforts. This increase in volume has significantly outpaced INTERPOL Washington's analytical capabilities, resulting in costly delays and backlogs. The FY 2017 budget includes a request for \$1.6 million to expand INTERPOL Washington's information technology infrastructure.

A foreseeable shortage of analytical and IT staff exists, as approximately **13 percent** of INTERPOL Washington's current onboard permanent workforce (8 / 63) will be eligible to retire within the next 12 months, by December 31, 2016. Another internal challenge is that **34 percent** of its on-board workforce (excluding interns) is detailed from domestic law enforcement partner agencies. To mitigate the skills gap that may result from the retirement of its employees and the turnover of detailees, INTERPOL Washington must further develop the tools necessary to recruit, hire, train, and retain qualified applicants. In response to this urgent business requirement, INTERPOL Washington conducted a comprehensive assessment of its human capital and information technology program, which resulted in the publication of human capital, IT, and mission strategic plans to guide the organization through FY 2017.

### **E. Strategic Goals and Objectives**

This request identifies specific outcome-based, strategic mission objectives that will continue to advance the mission of INTERPOL Washington. Achieving these objectives will move the agency toward fulfilling its statutory mandate to secure greater cooperation and share intelligence among law enforcement organizations throughout the world.

<b>Linking INTERPOL Washington to the Department of Justice's Strategic Plan</b>	
<b>Goal #1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law</b>	<b>Objective 1.1</b> Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats
	<b>Objective 1.4</b> Combat cyber-based threats and attacks through the use of all available tools, strong private-public partnerships, and the investigation and prosecution of cyber threat actors
<b>Goal #2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law</b>	<b>Objective 2.1</b> Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers



	<b>Objective 2.2</b> Prevent and intervene in crimes against vulnerable populations; uphold the rights of, and improve services to, America's crime victims
<b>Goal #3:</b> Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels	<b>Objective 3.5</b> Apprehend fugitives to ensure their appearance for federal judicial proceeding or confinement

## F. Environmental Management System

INTERPOL Washington will continue to implement its agency-wide Environmental Management System. The agency has adopted a policy whereby INTERPOL Washington personnel incorporate environmental stewardship into their decision-making and day-to-day activities. The policy mandates, among other things:

- Incorporation of environmental management principles into planning and budget preparation.
- Promotion and encouragement for all employees to practice energy conservation, waste stream reduction, and recycling.
- Compliance with applicable federal, state, and local environmental laws and regulations.
- Identification and reporting to the agency leadership any unsafe working conditions or environmental concerns.

## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>INTERPOL Washington Operations</b>	Will authorize the additional positions and support necessary to handle the substantial increase in workload as a result of expanded use of and access to INTERPOL Washington's law enforcement intelligence database network	2	1	1,430	17
<b>INTERPOL Washington IT Expansion Initiative</b>	Will authorize the additional support for ongoing and recurring costs associated with international law enforcement intelligence sharing initiatives.	0	0	1,600	24



**III. Appropriations Language and Analysis of Appropriations Language**

General Legal Activities language is displayed in the GLA rollup budget submission.



## IV. Program Activity Justification

### INTERPOL Washington

<i>INTERPOL Washington</i>	Direct Pos.	Estimate FTE	Amount
2015 Enacted	77	62	32,000
2016 Enacted	77	69	33,437
Adjustments to Base and Technical Adjustments	0	0	393
2017 Current Services	77	69	33,830
2017 Program Increases	2	1	3,030
2017 Program Offsets	0	0	0
2017 Request	79	70	36,860
<b>Total Change 2016-2017</b>	<b>2</b>	<b>1</b>	<b>3,423</b>

<i>INTERPOL Washington -Information Technology Breakout (of Decision Unit Total)</i>	Direct Pos.	Estimate FTE	Amount <sup>1</sup>
2015 Enacted	5	4	2,400
2016 Enacted	5	4	2,400
Adjustments to Base and Technical Adjustments	0	0	[868]
2017 Current Services	5	4	3,268
2017 Program Increases	2	1	1,779
2017 Program Offsets	0	0	0
2017 Request	7	5	5,047
<b>Total Change 2016-2017</b>	<b>2</b>	<b>1</b>	<b>2,647</b>

<sup>1/</sup> Prior to FY 2017 OCIO pay costs were not included within the IT breakout. Starting in FY 2017 OCIO pay is included.

#### 1. Program Description

INTERPOL is the world's largest international police organization and coordinates intelligence sharing between its 190 member countries, providing a neutral venue where jurisdictions and mandates are interwoven to permit cooperation and assistance in combating international crime. Pursuant to its statutory authority, INTERPOL Washington, the U.S. National Central Bureau, facilitates international law enforcement cooperation by serving as a police-to-police communications and intelligence network for both American and foreign police seeking assistance in criminal investigations. In addition INTERPOL transmits intelligence of a criminal justice, humanitarian, or other law enforcement related nature between domestic and foreign law enforcement agencies in INTERPOL member countries, and coordinates and integrates intelligence in investigations of an international nature.



## 2. Program and Resource Tables

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: INTERPOL Washington											
RESOURCES											
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	Target		Actual		Projected		Changes		Requested (Total)
			FY 2016		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		
Program Activity	1.1, 1.4, 2.1, Exchange of International Investigative Information/ Assistance		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FY 2017 Request
			69	32,000	62	32,000	69	33,437	1	3,423	70
Performance Measure: Output	Number of TECS/NCIC "lookouts" entered/updated		24,691		34,457		30,614				31,378
Performance Measure: Output	Number of locales on fugitives obtained through database queries or lead information provided by a foreign NCB		538		1,116		710				772
Performance Measure: Output	New cases initiated		41,224		41,835		42,354				43,201
Performance Measure: Efficiency	Number of "lookouts" issued to domestic and foreign law enforcement agencies on INTERPOL wanted/missing persons and suspects within 48		14,984		20,301		26,566				27,894
Performance Measure: Outcome	Arrests, extraditions, and deportations on INTERPOL Notices/Diffusions with a U.S. nexus		172		185		170				172
Data Definition, Validation, Verification, and Limitations: INFORMATION REQUIRED: Use this section to discuss data terms, data sources, how the information is collected, how the information is verified, and data limitations to include how well the indicator measures performance in this area.											

Data Definition, Validation, Verification, and Limitations: INFORMATION REQUIRED: Use this section to discuss data terms, data sources, how the information is collected, how the information is verified, and data limitations to include how well the indicator measures performance in this area.

TECS/INCIC "lookouts" are defined as records created by the USNCB in the Department of Homeland Security's TECS and the Federal Bureau of Investigation's National Crime Information Center (NCIC) for individuals who are wanted by the U.S. The USNCB considers "lookouts" to be the identification, through queries or lead information provided by another country, of a potential address or location of a wanted fugitive. USNCB workload and performance data is collected from the USNCB Envoy system and the INTERPOL General Secretariat. Data is validated through manual random sampling. A continuing data limitation on the fact that USNCB is sometimes left out of the information loop once a fugitive is located and/or arrested by national authorities, making it difficult to track and report final outcome. The USNCB continues to make improvements to its statistical reporting.



## PERFORMANCE MEASURE TABLE

Decision Unit: INTERPOL Washington																
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
			Actual		Actual		Actual		Actual		Target	Actual	Target	Target		
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of lookouts within 48 hours	8,882		8,036		9,334		16,649		14,984	25,301	26,566		27,894	
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of INTERPOL Diffusions issued	460		585		647		190							
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	New Cases Initiated	38,964		42,549		44,605		47,934		41,224	40,935	42,354		43,201	
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of US requested INTERPOL Notices	1,272		1,818		1,436		1,200							
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of TECS/NCIC "lookouts" entered/updated	21,165		20,720		22,495		27,434		24,691	34,487	30,614		31,379	
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of locates on fugitives obtained through database queries or lead information provided by a foreign NCB	390		439		441		874		538	1,116	710		772	
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of red notices published on US fugitives and sex offenders	N/A		N/A		473		437		501	402				
1.1, 1.4, 2.1, 2.2, & 3.5	Performance Measure	Number of green notices published on US fugitives and sex offenders	N/A		N/A		769		655		816	521				
1.1, 1.4, 2.1, 2.2, & 3.5	OUTCOME Measure	Arrests, extraditions, and deportations on INTERPOL Notices/Diffusions with a US nexus	146		165		145		183		172	185	170		172	
N/A = Data unavailable																



### **3. Performance, Resources, and Strategies**

#### **a. Performance Plan and Report for Outcomes**

INTERPOL Washington will support DOJ's strategic priorities by executing the following functions:

- Coordinating arrangements for payment of mandatory INTERPOL member dues;
- Communicating and exchanging intelligence between international and domestic law enforcement agencies;
- Ensuring that the interests of the United States are represented to the international law enforcement community;
- Identifying trends and patterns in international criminal activity;
- Providing leadership and expertise at global law enforcement symposia, conferences, and meetings;
- Extending access to INTERPOL data by U.S. Federal, State, Local, and Tribal law enforcement agencies; and,
- Championing the greater use by U.S. Federal, State, Local, and Tribal law enforcement agencies of international intelligence and communication tools available through INTERPOL Washington.

INTERPOL Washington will continue to facilitate cooperation among foreign and domestic law enforcement by making it easier to obtain intelligence and evidence needed to pursue fugitives and track criminal activity by leveraging authorized and existing information sharing environments.

#### **b. Strategies to Accomplish Outcomes**

INTERPOL Washington has formed strategic partnerships with U.S. law enforcement agencies that have assigned agents to INTERPOL Washington to initiate and respond to international inquiries. INTERPOL Washington further participates in such international law enforcement initiatives as: Foreign Terrorist Fighters (FTF) and Fusion Task Force (provides link analysis on terrorist groups and individuals); Human Trafficking Programs; Project Cargo Net (maritime piracy); International Stolen Motor Vehicle Program; Cultural Antiquities Program; Stolen/Lost Travel Documents Program; International Child Sexual Exploitation Program, and the INTERPOL Bioterrorism Program. The Notice and Diffusion program builds member countries' capacity to rapidly identify and arrest known and internationally wanted individuals leading to their eventual extradition, deportation or prosecution.

INTERPOL Washington will also continue to use its expertise to assist in halting international parental abductions in progress, pursue child abductors, and locate child victims.

Through INTERPOL Washington, every law enforcement agency in the United States can contact police, customs, and immigration authorities in 189 other member countries. The anticipated outcome is the reduction of crime domestically and internationally.

#### **c. Priority Goals**

The following are specific examples of how INTERPOL Washington supports the Attorney General's Priority Goals:



### **Priority Goal 1: “Protecting Americans from national security threat”**

National Central Bureaus representing more than 40 member countries have coalesced into a dedicated Foreign Terrorist Fighter program. This program currently supports a working group - an international symposia that serves as a vehicle for sharing intelligence and best practices; a multinational fusion cell, and an analytical database populated with intelligence contributed by and accessible to participating member countries. The criminal intelligence contained in the database includes detailed identity particulars that are especially valuable to law enforcement and border control authorities in making determinations of the terrorist threat posed by subjects located in, or attempting to enter their respective jurisdictions.

#### **“INTERPOL Chief says ‘unprecedented’ foreign terrorist fighter threat requires global action”**

May 29, 2015, UNITED NATIONS, New York— Addressing the United Nations Security Council Ministerial briefing on foreign terrorist fighters, INTERPOL Secretary General Jürgen Stock said countries need to ‘share even more information, and share it even better’. The INTERPOL Chief told the high-level meeting that more countries are realizing that sharing via INTERPOL represents an opportunity, not a risk, which in turn enables the world police body to more closely monitor the threat as it evolves. “Increased pressure to restrict foreign terrorist fighter mobility is already producing changes in tactics,” said Secretary General Stock, adding that INTERPOL projects ‘broken travel’ – where individuals move between several countries in non-consecutive legs before reaching their final destination – to become a more frequent feature, with an increase in facilitation networks as opposed to self-organization.

<http://www.interpol.int/News-and-media/News/2015/N2015-067>

At the start of the initiative in April 2013, there were only 12 messages or notices in the Fusion Cell’s database referencing Syria foreign fighters. Since then, the INTERPOL working group has met four times, providing intelligence on foreign fighters in the form of over 4,000 messages or notices.

Member countries have begun to integrate INTERPOL’s data into their respective border security and law enforcement lookout systems. As we all recognize sharing intelligence on suspected foreign fighters is a critical, necessary tool to track, interdict, and hopefully prosecute suspected fighters. It is particularly paramount that transit countries receive timely intelligence in order to interdict travelers.

Applied collectively, these resources provide a reliable platform for addressing the threat from foreign terrorist fighters by helping to monitor, deter and interdict their international movement. INTERPOL Washington is aggressively exploiting these resources in order to provide notification to other member countries and to communicate potential threats posed by individuals involved in terrorist activities. We have strategically used INTERPOL Notices to target, trace, locate and detain terrorists.

Currently, we have identified over 3,000 known terrorists who are subjects of INTERPOL Notices, which include 885 suspects wanted on Red Notices that were previously unknown to the U.S. Government. Through our partnership with the FBI, this intelligence was shared with the National Counter Terrorism Center for watch-listing. We also provided previously unknown supplemental intelligence on 1,200 records and issued 1,005 Blue or Green notices targeting terrorism suspects. The value of this data - a large portion of which was previously unknown- is proof positive that the intelligence contained within the INTERPOL system is important to the U.S. Law Enforcement and Intelligence communities and a key to continued homeland security.



Furthermore, to combat the growing threats posed by cybercrime and cyber-based attacks, INTERPOL Washington is working with INTERPOL to develop best practices and intelligence sharing initiatives to overcome the inherent challenges to investigating, prosecuting, and disrupting cybercrime; develop capacity in its member countries; network and leverage INTERPOL's global and regional resources in support of national efforts; and increase connectivity between U.S. law enforcement and foreign authorities worldwide. In order to meet these challenges, INTERPOL Washington is actively pursuing the development of training opportunities with INTERPOL and the DOJ to improve member countries' use of the Mutual Legal Assistance Treaty (MLAT) as a critical tool in support of global efforts to combat cybercrime; developing solutions to streamline the process of obtaining and communicating Basic Subscriber Information held by U.S. service providers, and transitioning the INTERPOL Operational Expert Group on Cybercrime, which is chaired by INTERPOL Washington, from a planning and development body to a permanent entity that will drive the organization's strategic cyber direction. Through the newly established INTERPOL Global Complex for Innovation and its Digital Crime Center, which is presently under the direction of a U.S. secondment from the FBI, INTERPOL Washington will also continue to promote the operational, technical, and investigative cyber capabilities of U.S. law enforcement and increase international cooperation in support of DOJ's National Security Priority Goal of disrupting and dismantling cyber threat actors.

#### **Priority Goal 2: "Protecting Americans from violent crime"**

INTERPOL Washington supports this priority goal by working with domestic and foreign law enforcement agencies to combat violent transnational criminal organizations and offenders. Its efforts include developing and exchanging criminal investigative information and intelligence designed to deny the illicit movement of and access to U.S. - sourced firearms, explosives, and ammunition by international traffickers, drug dealers, gang members, and terrorists. INTERPOL Washington's international data resources and communications network also support U.S. and foreign law enforcement agencies in investigating other violent offenses that include kidnapping, bank robbery, homicide, rape, and sexual assault. For example, INTERPOL Washington processes trace requests of U.S.-sourced firearms recovered or seized abroad for those member countries without electronic trace (E-Trace) capability and, through INTERPOL's secure *i-24/7* network, and assists ATF's National Tracing Center with requests from member countries for assistance in tracing foreign-made firearms recovered in the U.S. .

#### **"ICE, US Marshals arrest 27 international fugitives with Interpol alerts"**

June 5, 2015, WASHINGTON — Twenty-seven criminal foreign fugitives with active Interpol alerts were arrested across the United States this week by U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) and the U.S. Marshals Service (USMS).

Those arrested are from 13 different countries and wanted for crimes abroad. Of the 27, five are wanted for homicide, two for kidnapping, one for raping a child and one for human sex trafficking.

<http://www.ice.gov/news/releases/ice-us-marshals-arrest-27-international-fugitives-interpol-alerts>

Additionally, INTERPOL Washington processes applications for Red, Blue, and Green INTERPOL Notices on subjects connected with a wide range of violent offenses. These subjects include deportees (including members of transnational criminal gangs such as MS-13) who have



committed violent crimes, and members of outlaw motorcycle gangs (e.g., Hells Angels, Bandidos, Mongols, Vagos, and Outlaws). In addition to facilitating the location, capture, and removal of criminal fugitives, the publication of these notices supports the sharing of criminal intelligence and coordination of investigations and operations at a truly global level.

INTERPOL Washington also routinely facilitates emergency disclosure requests from internet service providers and online social media companies to prevent violent crimes in which serious threats of bodily harm, death threats, stalking, and extortion attempts are made using the internet, resulting in the identification, location and arrest of offenders posing a significant threat to persons and/or general public safety.

#### **Priority Goal 4: “Protecting the most vulnerable members of society”**

INTERPOL Washington provides substantial support to agency efforts to combat crimes against children. Using its exclusive authority, INTERPOL Washington has extended access to INTERPOL’s online investigative resources to child sex crimes investigators from DOJ, DHS, the U.S. Postal Inspection Service, Internet Crimes Against Children (ICAC) Task Forces, and the National Center for Missing and Exploited Children (NCMEC). This access enables them to utilize INTERPOL’s International Child Sexual Exploitation (ICSE) database, a system that employs sophisticated software programs to automatically extract digital information from images and compare it to stored images seized worldwide. ICSE’s performance capabilities enable users to initiate investigations online, comment on shared material, apply their unique knowledge of local circumstances, and consult and collaborate with their international counterparts. To date, over 6,301 victims from more than 40 countries have been identified utilizing this database. Identifications increase yearly as the database capabilities are propagated throughout the domestic and international law enforcement communities by INTERPOL as well as Federal, State, Local, and Tribal law enforcement entities. To date, there are 328 trained ICSE users world-wide. INTERPOL Washington continues to assist with coordinating/facilitating user training to increase database usage and knowledge.

#### **“Identifying and saving victims of child sexual abuse focus of INTERPOL meeting”**

October 4, 2014, HAMILTON, Bermuda — Child protection and victim identification specialists from around the world gathered at an INTERPOL conference to exchange best practice and information that could potentially uncover links between investigations of child sexual abuse worldwide. The five-day (29 September to 3 October) INTERPOL Specialists Group on Crimes Against Children meeting brought together 140 experts from 33 countries and private sector partners to discuss topics including child sex trafficking, Internet-based child sexual exploitation, analysis of abuse material, cyber-bullying and enhancing victim identification efforts, as well as partnerships between law enforcement and the private sector.

<http://www.interpol.int/News-and-media/News/2014/N2014-193>

INTERPOL Washington is using its exclusive authority to issue INTERPOL Green Notices as a systematic means of alerting domestic and foreign police agencies to the presence of serious child sex offenders travelling from abroad. In this regard, INTERPOL Washington’s authority now includes the ability to publish Green Notices on U.S. citizens and Legal Permanent Residents with an international nexus that fit the definition of Tier II and III sex offenders under the Sex Offender Registration and Notification Act (SORNA), 42 USC § 16911(4).<sup>1</sup> Complementing these efforts, INTERPOL Washington has entered into a partnership with the U.S. Marshals Service’s National



Sex Offender Targeting Center to identify, target, and track non-compliant sex offenders that travel internationally.

INTERPOL Washington has partnered with U.S. Immigration and Customs Enforcement in support of Operation Predator to identify foreign sex offenders whose crimes make them removable from the United States. This includes child sex predators, smugglers, and traffickers, as well as individuals involved in the distribution of images of child sexual abuse via the Internet. To date, INTERPOL Washington has published approximately 6,000 Green Notices in support of this operation.

Furthermore, INTERPOL Washington currently partners with U.S. Immigration & Customs Enforcement (ICE), Homeland Security Investigations along with foreign law enforcement counterparts to assist in the identification and location of human rights violators and those formerly engaged in war crimes. INTERPOL Washington also partners with the ICE Human Trafficking and Smuggling Center to utilize INTERPOL notices and diffusions to identify subjects that are either suspected of or wanted for crimes of human trafficking and/or smuggling. Requests from domestic and foreign law enforcement counterparts are reviewed and entered into appropriate U.S. indices and are then disseminated to the INTERPOL community.



## V. Program Increases by Item

<b>Item Name:</b>	<b>INTERPOL Washington Operations</b>
AG Targeted Priority Options:	1 – Protecting Americans from national security threats 4 – Protecting the most vulnerable members of society
Strategic Goals:	1 – Prevent Terrorism and Promote the Nation’s Security Consistent with the Rule of Law 2 – Prevent Crime, Protect the Rights of the American People, and enforce Federal Law
Strategic Objectives:	1.1 – Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats. 2.1 – Combat the threat, incidence, and prevalence of violent crimes by leveraging strategic partnerships to investigate, arrest, and prosecute violent and illegal firearms traffickers 2.2 – Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America’s crime victims
Budget Decision Unit(s):	INTERPOL Washington
Organizational Programs:	INTERPOL Washington’s Operational division with a focus on the INTERPOL Operation and Command Center (IOCC), and Human Trafficking and Child Protection Division (HTCP)
Program Increase:	Positions <u>2</u> Agt/Atty <u>0</u> FTE <u>1</u> Dollars <u>\$1,430,000</u>

### **Description of Item**

INTERPOL Washington requests **2 positions, 1 FTE and \$1.430 M** to support the Department’s efforts to prevent terrorism; combat and prevent violent crimes’ and protect vulnerable people. The need for International law enforcement cooperation and access to international law enforcement intelligence information is growing due to the significant rise in transnational crime and the risk associated with international terrorism. As an integral U.S. source for International law enforcement intelligence, INTERPOL Washington is experiencing a significant increase in demand from State, Local, Tribal, Federal and International agencies for services and assistance (see Figure 5). With rising costs and current staffing levels, the additional funding requested is needed to enable INTERPOL Washington to handle this escalation in service demands.



### USNCB Productivity & Records Management FY 2010-2015

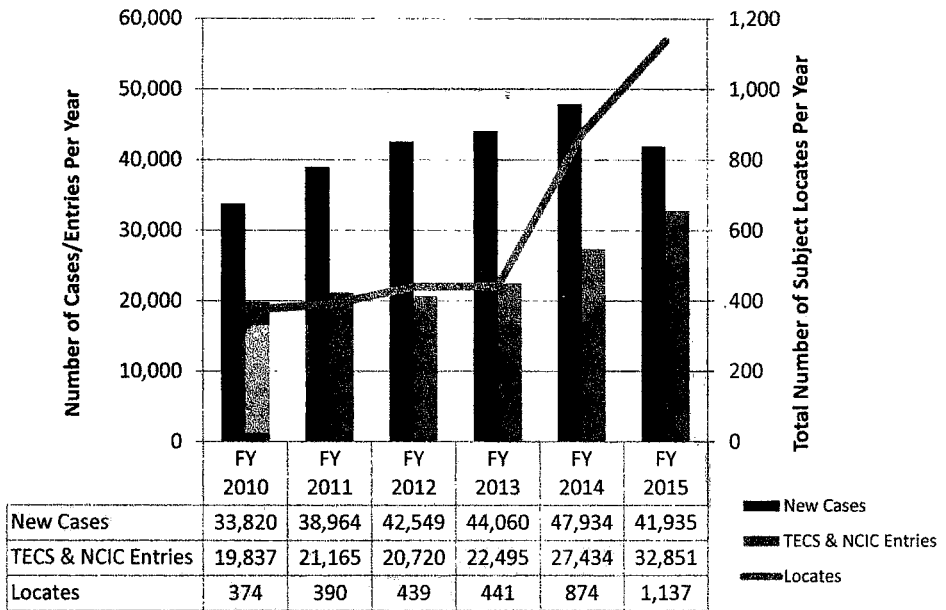


Figure 5

#### Justification

INTERPOL Washington is the primary interface between domestic and foreign law enforcement partners and is operational 24/7 thru its INTERPOL Operations and Command Center (IOCC). When domestic law enforcement needs international intelligence or vice versa, INTERPOL Washington is the conduit for which it happens. Through outreach and the every changing global environment, INTERPOL Washington services and the demand for it has continuously grown.

#### IOCC

The IOCC provides mission-critical functions that include communications, the initiation of all cases, support of the casework performed in the investigative divisions, as well as, handling their own caseload. In addition to the 24/7 Operations, the IOCC also contains the Foreign Notice Program, Translation Program and the Integrated Automated Fingerprint Identification System (IAFIS) Program. These programs work about 50% of the incoming case load (see Figure 6).



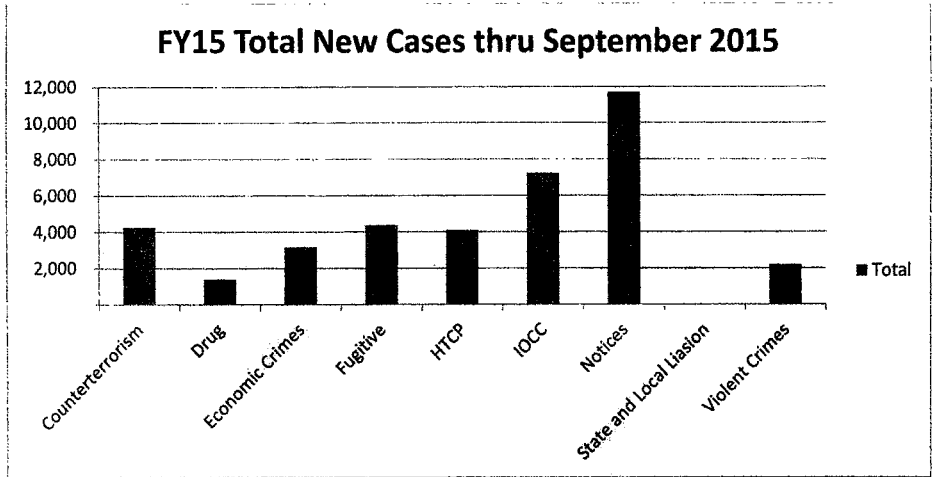


Figure 6

#### IOCC 24/7 Operations

Currently, the IOCC receives 27,000 to 32,000 incoming messages per month that must be reviewed, so appropriate action can be taken. With the current staff, each analyst must review an average of 1,500 to 1,800 incoming messages per month to determine appropriate action. From this total, they open approximately 3,000 to 3,500 new cases per month, which require appropriate queries, indexing of pertinent information and the entry of lookouts in to U.S. indices for diffusion and notice cases. They also dispatch an additional 8,000 to 9,000 messages a month to existing cases. Additionally, the staff handles all incoming phone calls from U.S. law enforcement and foreign counterparts and they maintain stolen and lost travel documents, humanitarian and administrative cases.

From fiscal year 2007 to 2014, the IOCC has seen over a 95% increase in new cases opened, with the incoming message traffic increasing in similar fashion. In Fiscal 2015, a new procedure was initiated to realize efficiencies, which includes no longer opening a new case on every Stolen and Lost Travel Document (SLTD) query resulting in a hit. These changes require that a new cases only be opened on specific SLTD hits or when INTERPOL Washington is contacted by U.S. law enforcement or INTERPOL Member Countries regarding a passport hit. While efficiencies have been realized in new cases, the amount of SLTD queries are still increasing and are expected to continue over the next several years due to advancement in technology throughout the INTERPOL community, especially within the SLTD Program. U.S. authorities conducted over 374 million queries against the INTERPOL SLTD database in 2015 and as they continue to expand their usage, INTERPOL Washington will be impacted.

#### IOCC Foreign Notice Program

The IOCC Foreign Notice Program works the majority of incoming diffusions and notices on foreign fugitives, criminal suspects and career offenders. With an active caseload of nearly 50,000 cases, the current five analysts are required to maintain an active caseload of approximately 10,000 cases each. In addition, these analysts receive on average 250 new cases per month. With an average new case load increase of 15.56% per year, this workload to analyst ratio resulted in the



systemic growth of an unmanageable backlog that was reduced through the addition of contractors. The reduction in the backlog does not include the thousands of stagnant cases that are due to be reevaluated. The queries performed on these cases and the lookouts placed in U.S. indices are the primary source of identifying individuals and foreign fugitives involved in or wanted for crimes that include homicide, child sexual abuse, terrorism, and other serious felonies. That any of the subject offenders could be at large within the United States and unknown to law enforcement creates a potentially significant threat to public safety and national security.

To address that issue INTERPOL Washington was able to obtain in 2014, Treasury Executive Office Asset Forfeiture (TEOAF) funding. This funding allowed the IOCC to bring 10 contractors onboard to support the Foreign Notice Program. The addition of these contractors has reduced the critical backlog and is providing the ability for the caseworkers to keep up with new cases and providing opportunity to review historical cases. With the contractor assistance INTERPOL Washington saw a dramatic increase of “Locates”, foreign fugitives that have been potentially identified to be residing in the United States (see Figure 7 below).

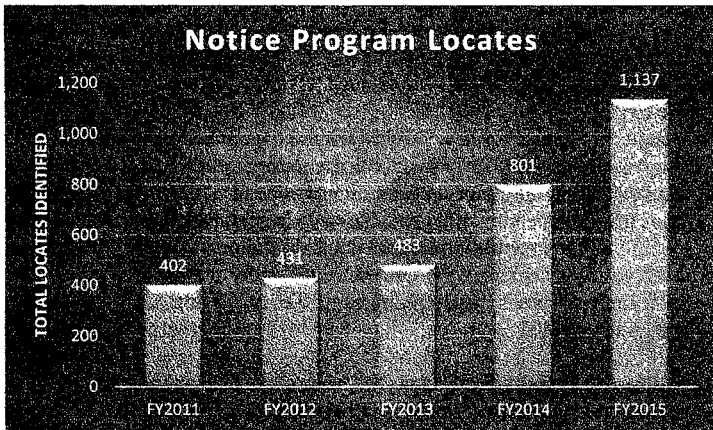


Figure 7

This TEOAF funding runs out in May 2016. The loss of TEOAF funding in 2016 will result in the loss of the contractors that have been supporting the program. This will result in the backlog again increasing, which will weaken INTERPOL Washington’s ability to identify foreign criminals residing in the United States. Additional resources for this program will help INTERPOL manage its caseload and ensure these foreign criminals do not jeopardize the safety of our nation and its people.

#### IOCC Translation Program

The IOCC Translation Program is responsible for the translation of all incoming Spanish and French messages, as well as, the translation of outgoing English messages into French and Spanish when exigent circumstances arise. Currently INTERPOL Washington does not have the ability to communicate in INTERPOL’s other official language, Arabic.

In 2015, the Translation Program was operating with 3 detailed Federal Bureau of Investigation (FBI) linguists (2 full-time Spanish and 1 Part-time French) through a reimbursable agreement.



Starting FY 2016, the FBI was no longer able to provide onsite Spanish linguists and a full-time Spanish linguist was brought onboard as a contractor. The IOCC Translation Program receives on average 350 to 500 messages a month that require translation. This total does not include the estimated 2,000 diffusions and notices that are saved to cases each month without appropriate translation, so INTERPOL Washington staff can ensure those individuals are entered into U.S. indices without extensive delay. Furthermore, it is estimated the current case file system holds around 4,000 to 6,000 additional untranslated notices.

The inability to translate these documents means that important information could be missed that would help identify, locate and remove criminals from the United States. Furthermore, the failure to provide outgoing foreign language messages when U.S. fugitive targets are identified abroad could result in a missed opportunity to capture these criminals. Since the arrival of the translators detailed from the FBI, the backlog of everyday message traffic in Spanish and French has been reduced and the queue is being managed with minimal backlog.

#### **IOCC IAFIS Program**

The IOCC IAFIS Program is responsible for the processing of all case related fingerprints requests that need to be compared, uploaded or retrieved from U.S. and INTERPOL databases. In fiscal 2015 the IAFIS Program completed on average 760 fingerprint requests per month and was responsible for entering over 4,900 sets of fingerprints on foreign criminals into the Federal Bureau of Investigation's criminal database that year. This number could significantly rise with technology increasing throughout the world. INTERPOL Washington has already seen a steady increase in requests containing fingerprints, especially in diffusions and notices seeking to identify persons wanted for crimes that include homicide, child sexual abuse, terrorism, and other serious felonies. Ensuring these criminal fingerprints are entered into U.S. indices is the only way to identify foreign criminals arrested within or entering the United States under false identities. Additional support would allow INTERPOL Washington to manage the increasing workload and ensure these criminals do not go undetected.

#### **Human Trafficking and Child Protection**

INTERPOL Washington supports State, Local, Tribal, Federal and Foreign law enforcement agencies in locating missing and abducted children through the Human Trafficking and Child Protection (HTCP) division. HTCP utilizes INTERPOL notices to locate and return missing children to their parents. Incoming requests from foreign law enforcement counterparts are entered into appropriate U.S. indices, including notification to the National Center for Missing and Exploited Children (NCMEC). INTERPOL Washington disseminates information to foreign law enforcement agencies regarding children that are missing or removed from the United States by the non-custodial parent to a foreign country. In FY 2014, INTERPOL Washington closed 42% more cases, while opening only 3% more new cases over FY 2013 levels (see Figure 8). In FY 2015 the numbers of cases opened and closed declined by almost 50%. Due to limited resources, INTERPOL Notices are unable to be processed and entered into the INTERPOL Automated Search Facility (ASF) on a daily basis, impacting the number of HTCP cases being opened. This program increase will provide resources to process these Notices timely into the ASF.

Human Trafficking & Child Protection Workload Data	Foreign			Domestic		
	2013	2014	2015	2013	2014	2015
Total Cases Opened	2,150	2,688	1,547	2,316	1,933	946
Total Cases Closed	1,552	1,934	1,738	1,257	2,681	639

**Figure 8**



### Adam Walsh Act

In support of the Adam Walsh Act, INTERPOL Washington provides immediate and secure communications with foreign and domestic law enforcement partners to monitor the international movements of convicted and non-compliant fugitive sex offenders. These efforts are coordinated with the state and local sex offender registries, the U.S. Marshals Service, and the National Sex Offender Targeting Center. The Green notice program focuses on sex offenders involving children because of the high recidivism rate amongst child molesters and their tendency to travel to other countries to engage in sexual offenses. Green Notices provide an effective tool for notifying law enforcement authorities in other countries of the potential danger these individuals pose to their communities.

INTERPOL Washington also coordinates with federal state and local law enforcement referrals from foreign law enforcement regarding child pornography, online enticement, child sex tourism, commercial sexual exploitation. The investigative referrals have resulted in investigations that have resulted in the arrest and convictions of pedophiles in the U.S. In addition, INTERPOL Washington also works with NCMEC to remove internet web sites that are found to contain child pornography on US internet providers.

The volume of work associated with HTCP has increased and is no longer manageable. With the resources requested, additional INTERPOL Notices can be processed on a daily basis and entered into the INTERPOL Automated Search Facility (ASF). As automation enhancements of border information becomes a standard, data matching with the INTERPOL ASF and border information could serve as both an investigative resource and a means to locate our missing children, and track child predators, making America safer for our children.

### Impact on Performance

This initiative fully supports the Attorney General's Targeted Priority Goal 4 – Protecting the most vulnerable members of society and 1 – Protecting Americans from national security threats. INTERPOL Washington also supports the DOJ Strategic Goal 2 “Prevent Crime, Protect the Rights of the American People, and enforce Federal Law” and Objectives 2.1 – Combat the threat, incidence, and prevalence of violent crimes by leveraging strategic partnerships to investigate, arrest, and prosecute violent and illegal firearms traffickers and 2.2 “Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.”

The additional resources requested will enable INTERPOL Washington to hire additional staff and contractor support necessary to address the overwhelming increases seen in the past five years and allow the agency to have the ability to address the future growth expected in the next few years. This staffing would allow a more manageable caseload, which in turn would result in a more efficient and higher quality work product. The accurate and timely processing of incoming requests is critical to INTERPOL Washington's mission of providing investigative support to Federal, State, Local, Tribal and Foreign law enforcement agencies. This support accelerates the detection and apprehension of persons wanted for crimes that include homicide, child sexual abuse, terrorism, and other serious offenses.



**Funding****Base Funding**

I. FY 2015 Enacted				II. FY 2016 President's Budget				III. FY 2017 Current Services <sup>1</sup>			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
72	0	65	\$29,600	72	0	65	\$31,037	72	0	65	\$30,562

<sup>1</sup> Prior to FY 2017 OCIO pay costs were included in this section. Starting in FY 2017 OCIO pay is included within the IT breakout.

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Information Technology Mgmt (2210)	\$85	1	\$85	\$53	\$31
Information Technology Mgmt (2210)	\$94	1	\$94	\$86	\$5
<b>Total Personnel</b>	<b>\$179</b>	<b>2</b>	<b>\$179</b>	<b>\$139</b>	<b>\$36</b>

**Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Contractual Support			\$1,251	\$13	\$13
<b>Total Non- Personnel</b>			<b>\$1,251</b>	<b>\$13</b>	<b>\$13</b>

**Total Request for this Item**

	Pos	Ag t/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	72	0	65	\$8,809	\$21,753	\$30,562	\$88	\$89
Increases	2	0	1	\$179	\$1,251	\$1,430	\$152	\$49
<b>Grand Total</b>	<b>74</b>	<b>0</b>	<b>66</b>	<b>\$8,988</b>	<b>\$23,004</b>	<b>\$31,992</b>	<b>\$240</b>	<b>\$138</b>



<b>Item Name:</b>	<b>INTERPOL Washington IT Expansion Initiative</b>
<b>Strategic Goals:</b>	<p>1 – Prevent Terrorism and Promote the Nation’s Security Consistent with the Rule of Law</p> <p>2 – Prevent Crime, Protect the Rights of the American People, and enforce Federal Law</p>
<b>Strategic Objectives:</b>	<p>1.1 – Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.</p> <p>2.1 – Combat the threat, incidence, and prevalence of violent crimes by leveraging strategic partnerships to investigate, arrest, and prosecute violent and illegal firearms traffickers</p> <p>2.2 – Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America’s crime victims</p>
<b>Budget Decision Unit:</b>	INTERPOL Washington
<b>Organizational Program:</b>	INTERPOL Washington’s Office of the Chief Information Officer (OCIO)
<b>Program Increase:</b>	Positions <u>0</u> Agt/Atty <u>0</u> FTE <u>0</u> Dollars <u>\$1,600,000</u>

#### **Description of Item**

Interpol Washington is requesting **0** positions, **0** FTE and **\$1.600 M** to support ongoing and recurring costs associated with international law enforcement “information” sharing initiatives. As the United States’ communications nexus for global intelligence, INTERPOL Washington is heavily reliant on technology and developing / improving State, Local, Tribal and Federal access to INTERPOL systems. With access to these systems, U.S. law enforcement agencies can obtain global law enforcement intelligence otherwise unavailable to them. INTERPOL Washington’s approach is predicated on streamlining access to INTERPOL information through the reduction of internal manual processes and by maximizing service availability through direct interfaces or subscription based INTERPOL Washington notification services. Additionally, with increasing demand by more domestic law enforcement agencies joining the network, INTERPOL Washington must constantly work to expand its infrastructure and network abilities to handle this increased usage.

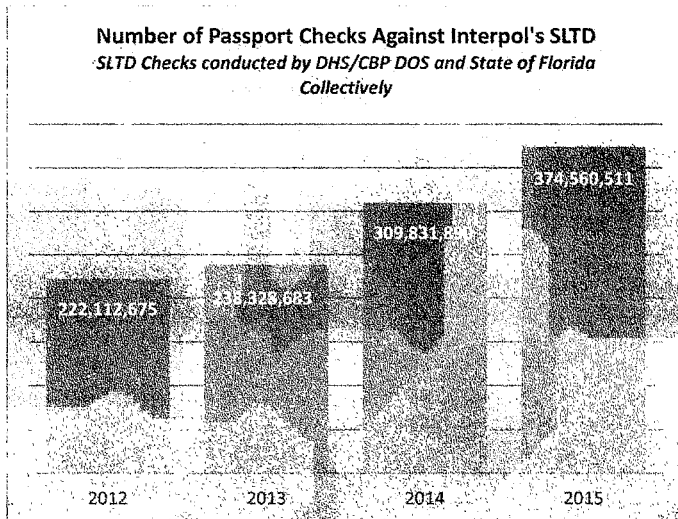
#### **Justification**

INTERPOL Washington connects more than 18,000 U.S. Federal, State, Local and Tribal law enforcement authorities to INTERPOL’s i-24/7 network. This unprecedented access, made possible through interfaces developed and built by INTERPOL Washington, delivers real-time access to centralized databases located in Lyon, France and fed from INTERPOL’s 190 member countries. Expanded access to INTERPOL information within the U.S. requires a geographically diversified and resilient architecture to ensure 24/7 support. Current efforts include simplifying the method by which INTERPOL access is provided to U.S. law enforcement agencies and improved



collaboration tools to allow for real-time secure communication. INTERPOL Washington will deliver and receive INTERPOL content through secure methods leveraging mobile platforms. INTERPOL Washington works with U.S. law enforcement agencies to enable their access to these secure mobile platforms.

INTERPOL Washington will continue to collaborate with the Department of Homeland Security, Department of State, and Federal Bureau of Investigation to ensure automatic INTERPOL checks are being made at every opportunity in order to provide improved assistance to law enforcement. Expanded system integration efforts will also include real-time inbound passport checks at every land border or point of entry to enhance current national security initiatives. In CY 2015, DHS/DOS and the State of Florida collectively contributed to over 374.6 million passport checks against INTERPOL's Stolen and Lost Travel Document (SLTD) database, as reflected in Figure 9 below.



As depicted in Figure 9, INTERPOL Washington managed a 69% increase in the use of INTERPOL services between CY 2012-2015. This trend is expected to continue as the Transportation Security Administration (TSA) extends SLTD query capability to TSA's Secure Flight program, where it is anticipated that screenings conducted under TSA's Secure Flight program will increase the number of SLTD queries by an additional 80 million queries annually, along with the increased demand for international law enforcement cooperation and timely access to global law enforcement intelligence to combat the growth of transnational criminal and terrorist organizations.

INTERPOL Washington has partnered with various states and the FBI's National Crime Information Center (NCIC) / National data Exchange (N-DEX) for automatically checking INTERPOL systems for every Query Wanted name check. Following this federated query model, law enforcement agencies can use their respective state systems to gain access to INTERPOL information. INTERPOL Washington intends to expand this model across the U.S. so the entire



law enforcement community has access to the intelligence needed to keep our country safe. In 2014, over 53.8 million name checks were made by domestic law enforcement. In 2015, over 66.9 million name checks were made by domestic law enforcement, an increase of 24 percent. See Figure 10. Using this federated query model to routinely check INTERPOL is a low cost, high impact initiative.

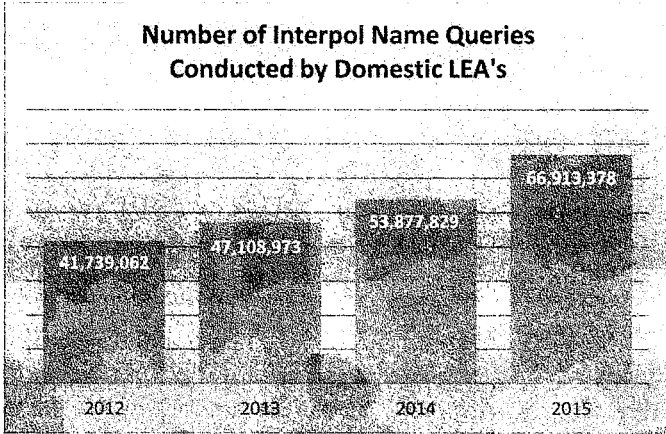
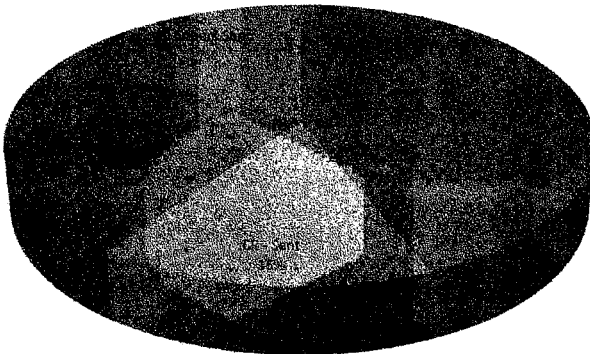


Figure 10

INTERPOL Washington is the second largest U.S. user of the International Justice and Public Safety Information Sharing Network (more commonly known as the National Law Enforcement Telecommunications System or Nlets) services; only DHS/CBP runs more queries. At INTERPOL Washington's request, the INTERPOL Person Query was added to Nlets. This query currently represents 15% of all traffic within the Nlets network as a result of automatic checks being conducted by federated states. See Figure 11.

#### Top Message Transactions Over Nlets For December



**Figure 11 National Law Enforcement Transactions (Interpol Person Query (IPQ) December 2015)**  
*Identify Query (IQ); Triple I Responses from FBI NCIC (CR); Driver Inquiry (DQ); Registration Inquiry (RQ)*  
 \*Source NLETS Statistical Report December 2015



With all this data, INTERPOL Washington will finally have a unique opportunity to view queries and hits for all law enforcement agencies in the U.S. at a high level. Of particular interest will be the capability to identify and trend the locations of INTERPOL hits. Having a single management point for all INTERPOL Queries creates the unique opportunity for data trend analysis and crime prevention. This analysis could aid in identifying predictive international data trends and patterns that would be useful for Federal, State, Local and Tribal law enforcement. Using this information to develop innovative intelligence products could prove to be critical in protecting the United States from foreign attacks and identifying criminal activities with international ties.

### **Leveraging Existing Law Enforcement Sharing Environments**

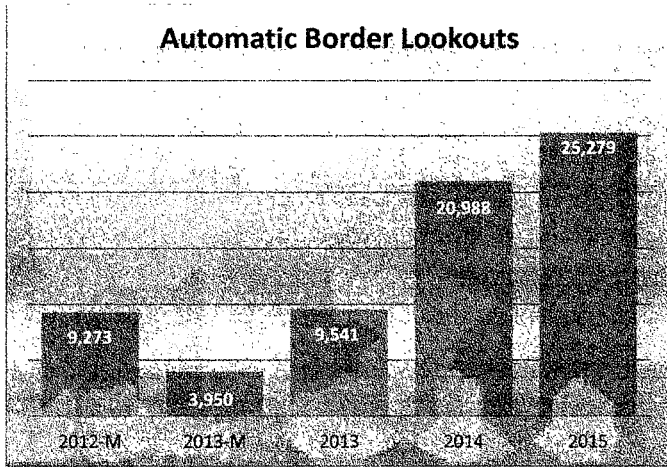
Utilizing all law enforcement sharing environments is a daunting and important first step. Using standardized interfaces such as the National Interoperability Exchange Model (NIEM) and developing methods of providing direct federated access to domestic law enforcement agencies via existing Law Enforcement Sharing Environments is an opportunity that remains largely undeveloped. All automatic queries would be relayed to INTERPOL via a trusted U.S. notification service. INTERPOL Washington intends to expand the current technology being utilized to share INTERPOL information. This expansion requires increasing INTERPOL Washington's information sharing capabilities and will involve implementing the following technologies:

1. Improve and expand INTERPOL Washington's automated biometric processing services for improved fingerprint/photo identification and international biometric exchange.
  - a. Connecting Law Enforcement Agencies directly to INTERPOL's Automated Fingerprint Identification System (AFIS) for real time biometric checks using domestic AFIS systems.
  - b. Automatically adding INTERPOL biometric information into national databases for access by U.S. law enforcement agencies.
2. Complete redundancy of all critical services to maintain constant 24/7 availability in the event of an emergency or national crisis for all national programs such as Nlets, FBI's Next Generation Identification (NGI) System/Integrated Automated Fingerprint Identification System (IAFIS) and DHS Advance Passenger Information System (APIS) and Electronic System for Travel Authorization (ESTA) interfaces.

### **INTERPOL Washington's INTERPOL Push Notification Services**

INTERPOL Washington has developed a mechanism by which INTERPOL content is programmatically transformed and submitted to national systems. This push notification service processes both biographic and biometric content and provides a centralized reporting framework for all data that is disseminated to subscribers. All national lookouts are placed using this model, and more than 25,000 lookouts were posted in 2015, as reflected in Figure 12. This development greatly reduced manual processes associated with the notice lookout process. Push notification processes are now processing all biometric content for every INTERPOL notice as they are published in near-real time, reducing errors and maximizing automation efficiencies.





**Figure 12: "M" Represents Manual Process prior to automation**

### **Impact on Performance**

This initiative fully supports the Attorney General's Strategic Goal 1 – Protecting Americans from National Security Threats, with Objective 1.1 “Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.” INTERPOL Washington also supports DOJ Strategic Goal 2 “Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law” and Objectives 2.1 – Combat the threat, incidence, and prevalence of violent crimes by leveraging strategic partnerships to investigate, arrest, and prosecute violent and illegal firearms traffickers” and 2.2 “Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America’s crime victims.” This initiative also supports Strategic Goal 3 – Ensure and Support the Fair, Impartial, Efficient and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels and Objective 3.5 “Apprehend fugitives to ensure their appearance for federal judicial proceeding or confinement.”

Support for an international project of this scale requires specific program related expertise, resources and coordination. Recognizing the challenges involved with any information sharing endeavor, the Attorney General created the Global Justice Information Sharing Initiative (Global) to support the broad scale exchange of pertinent justice and public safety information. INTERPOL Washington's IT Expansion Initiative complement's the Attorney General's initiative by establishing a direct, standardized, electronic link between U.S. law enforcement agencies and INTERPOL databases via INTERPOL Washington. Searches of INTERPOL's databases by domestic law enforcement agencies will be limited in accordance with DOJ security requirements and INTERPOL rules for information sharing.

The requested funding will permit INTERPOL to expand INTERPOL system access and the usage of its systems. Funding will support the growing demand and provide the ability to add new partners. Without a program increase, the current infrastructure cannot be enhanced.



**Funding****Base Funding**

IV. FY 2015 Enacted				V. FY 2016 President's Budget				VI. FY 2017 Current Services <sup>1</sup>			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
5	0	4	\$2,400	5	0	4	\$2,400	5	0	4	\$3,268

<sup>1/</sup> Prior to FY 2017 OCIO pay costs were not included within the IT breakout. Starting in FY 2017 OCIO pay is included.

**Personnel Increase Cost Summary**

n/a

**Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Contractor Support for Tech Support & development			\$1,141	\$11	\$12
Maintenance & Warranties			\$335	\$3	\$3
Licenses and subscriptions			\$124	\$1	\$1
Total Non-Personnel			\$1,600	\$16	\$16

**Total Request for this Item**

	Pos	Agg/ Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	5	0	4	\$868	\$2,400	\$3,268	\$9	\$9
Increases	0	0	0	\$0	\$1,600	\$1,600	\$16	\$16
Grand Total	5	0	4	\$868	\$4,000	\$4,868	\$25	\$25



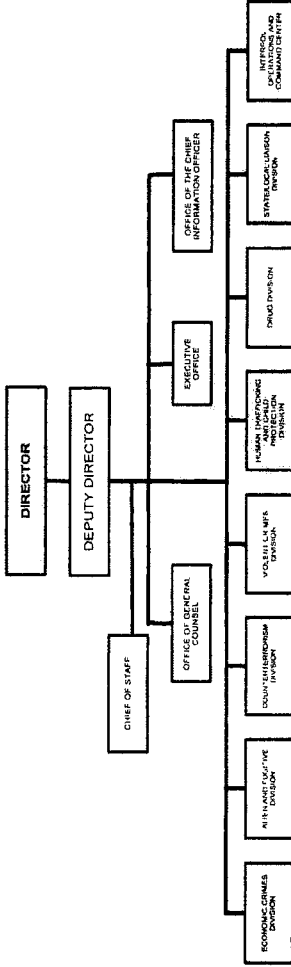
**VI. Program Offsets by Item**

Not applicable.

**VII. Exhibits**



INTERPOL WASHINGTON  
U.S. National Central Bureau



Approved by  Date 5/16/13



B. Summary of Requirements

**Summary of Requirements**  
**INTERPOL Washington**  
 Salaries and Expenses  
 (Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted <sup>1/</sup></b>	77	62	32,000
<b>Total 2015 Enacted</b>			32,000
<b>2016 Enacted</b>	77	69	33,437
<b>Base Adjustments</b>			
Pay and Benefits	0	0	151
Domestic Rent and Facilities	0	0	107
Foreign Expenses	0	0	135
<b>Total Base Adjustments</b>	0	0	393
<b>Total Technical and Base Adjustments</b>	0	0	393
<b>2017 Current Services</b>			
<b>Program Changes</b>	77	69	33,830
Increases:			
INTERPOL Washington Operations			
INTERPOL Washington IT Expansion Initiative	2	1	1,430
Subtotal, Increases	0	0	1,600
<b>Total Program Changes</b>	2	1	3,030
<b>2017 Total Request</b>	2	1	3,030
<b>2016 - 2017 Total Change</b>	79	70	36,860
	2	1	3,423

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
INTERPOL - Washington	77	62	32,000	77	69	33,437		0	393	77	69	33,830
<b>Total Direct</b>	<b>77</b>	<b>62</b>	<b>32,000</b>	<b>77</b>	<b>69</b>	<b>33,437</b>		<b>0</b>	<b>393</b>	<b>77</b>	<b>69</b>	<b>33,830</b>
Balance Recession									0			0
<b>Total Direct with Rescission</b>												
Reimbursable FTE		0							0			0
<b>Total Direct and Reimb. FTE</b>		<b>62</b>			<b>69</b>			<b>0</b>	<b>393</b>		<b>69</b>	<b>33,830</b>
Other FTE:												
LEAP		0			0							0
Overtime		0			0							0
<b>Grand Total, FTE</b>		<b>62</b>			<b>69</b>			<b>0</b>	<b>393</b>		<b>69</b>	<b>33,830</b>

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
INTERPOL - Washington	2	1	3,030	0	0	0	79	70	36,860
<b>Total Direct</b>	<b>2</b>	<b>1</b>	<b>3,030</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>79</b>	<b>70</b>	<b>36,860</b>
Balance Recession			0			0			0
<b>Total Direct with Rescission</b>									
Reimbursable FTE			3,030			0			36,860
<b>Total Direct and Reimb. FTE</b>		<b>1</b>			<b>0</b>			<b>70</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>1</b>			<b>0</b>			<b>70</b>	



**FY 2017 Program Increases/Offsets by Decision Unit**  
INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	INTERPOL - Washington			Total Increases		
		Direct Pos.	Agri./Any.	Est. FTE Amount	Direct Pos.	Agri./Any.	Est. FTE Amount
INTERPOL Washington Operations	17	2	0	1 1,430	2	0	1 1,430
INTERPOL Washington IT Expansion Initiative	24	0	0	0 1,600	0	0	0 1,600
Total Program Increases		2	0	1 3,030	2	0	1 3,030

Program Offsets	Location of Description by Program Activity	INTERPOL - Washington			Total Offsets		
		Direct Pos.	Agri./Any.	Est. FTE Amount	Direct Pos.	Agri./Any.	Est. FTE Amount
No Program Offsets							
Total Program Offsets							



D. Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal and Objective**  
 INTERPOL, Washington  
 Salaries and Expenses  
 (Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Request	Direct Reimb Amount	Amount
<b>Goal 1 Prevent Terrorism and Promote the Nation's Security</b> Consistent with the Rule of Law																		
1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.	5	2,581	5	2,423	5	2,451	5	2,451	1	3,030	0	0	0	0	0	6	5,481	
1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors.	17	7,228	17	8,238	17	8,335	17	8,335	0	0	0	0	0	0	0	17	8,335	
<b>Subtotal, Goal 1</b>	<b>22</b>	<b>9,807</b>	<b>22</b>	<b>10,661</b>	<b>22</b>	<b>10,786</b>	<b>22</b>	<b>10,786</b>	<b>1</b>	<b>3,030</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>23</b>	<b>13,816</b>	
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>																		
2.1 Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers.	25	12,903	25	12,115	25	12,258	25	12,258	0	0	0	0	0	0	0	25	12,258	
2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.	12	4,129	12	5,815	12	5,883	12	5,883	0	0	0	0	0	0	0	12	5,883	
<b>Subtotal, Goal 2</b>	<b>37</b>	<b>17,032</b>	<b>37</b>	<b>17,930</b>	<b>37</b>	<b>18,141</b>	<b>37</b>	<b>18,141</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>37</b>	<b>18,141</b>	
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>																		
3.5 Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement.	10	5,161	10	4,846	10	4,903	10	4,903	0	0	0	0	0	0	0	10	4,903	
<b>Subtotal, Goal 3</b>	<b>10</b>	<b>5,161</b>	<b>10</b>	<b>4,846</b>	<b>10</b>	<b>4,903</b>	<b>10</b>	<b>4,903</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>4,903</b>	
<b>TOTAL</b>	<b>69</b>	<b>32,000</b>	<b>69</b>	<b>33,437</b>	<b>69</b>	<b>33,830</b>	<b>69</b>	<b>33,830</b>	<b>1</b>	<b>3,030</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>70</b>	<b>38,860</b>	



## Justifications for Technical and Base Adjustments

INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 <b>2017 Pay Raise – 1.6%</b> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested \$110K, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$88K for pay and \$22K for benefits.)	0	0	110
2 <b>Annualization of 2016 Pay Raise</b> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$29K, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$24K for pay and \$5K for benefits).	0	0	29
3 <b>Changes in Compensable Days</b> The decreased cost for two compensable days in FY2017 compared to FY2016 is calculated by dividing the FY2016 estimated personnel compensation in the amount of \$7.27M and applicable benefits totaling \$1.506M by 260 compensable days and then multiplying it by two (the decreased in compensable days).	0	0	-67
4 <b>Health Insurance</b> Effective January 2016, the component's contribution to Federal employees' health insurance increases by 6.3 percent. Applied against the 2016 estimate of \$473K, the additional amount required is \$30K.	0	0	30
5 <b>Retirement</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$49K is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	49
<b>Subtotal, Pay and Benefits</b>	0	0	151



### Justifications for Technical and Base Adjustments

INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
1 <u>GSA Rent</u> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$102K is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	102
2 <u>Guard Service</u> This includes Department of Homeland Security (DHS) Federal Protective Service charges. Justice Protective Service charges and other security services across the country. The requested increase of \$5K is required to meet these commitments.	0	0	5
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>107</b>
<b>Foreign Expenses</b>			
1 <u>Interpol Dues</u> In October 2013, the INTERPOL General Assembly adopted a new model for the distribution of statutory contributions among INTERPOL member countries. Under the new dues structure, the United States will continue to pay the largest percentage, and the percentage will escalate from 18.754% to 19.4% in 2017. The 2017 contribution amount is expected to be \$14.588M.	0	0	135
<b>Subtotal, Foreign Expenses</b>	<b>0</b>	<b>0</b>	<b>135</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>0</b>	<b>393</b>







**Crosswalk of 2016 Availability**  
INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount		Direct Pos.	Est. FTE	Amount
INTERPOL - Washington	77	69	33,437	0	0	0	0	0	0	77	69	33,437
<b>Total Direct</b>	<b>77</b>	<b>69</b>	<b>33,437</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>77</b>	<b>69</b>	<b>33,437</b>
Balance Rescission			0			0	0	0	0			0
Total Direct with Rescission			33,437			0	0	0	0			33,437
Reimbursable FTE		0			0							0
Total Direct and Reimb. FTE		69			0						69	
Other FTE												
LEAP FTE		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		69			0						69	



## Summary of Reimbursable Resources

INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount
U.S. Secret Service	0	0	3	0	0	3	0	0	3	0	0	0
Asset Forfeiture Fund	0	0	318	0	0	377	0	0	322	0	0	-55
Department of Justice (Justice Management Division)	0	0	17	0	0	0	0	0	0	0	0	0
Department of State	0	0	1,970	0	0	1,969	0	0	0	0	0	-1,969
Other Anticipated Agreements	0	0	0	0	0	200	0	0	200	0	0	0
U.S. Marshals Services	0	0	20	0	0	18	0	0	32	0	0	14
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>2,328</b>	<b>0</b>	<b>0</b>	<b>2,567</b>	<b>0</b>	<b>0</b>	<b>557</b>	<b>0</b>	<b>0</b>	<b>-2,010</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount
INTERPOL - Washington	0	0	2,328	0	0	2,567	0	0	557	0	0	-2,010
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>2,328</b>	<b>0</b>	<b>0</b>	<b>2,567</b>	<b>0</b>	<b>0</b>	<b>557</b>	<b>0</b>	<b>0</b>	<b>-2,010</b>



**Detail of Permanent Positions by Category**  
INTERPOL Washington  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		ATBs	FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	
Clerical and Office Services (0300-0399)	66	0	66	0	0	0	0	0
Accounting and Budget (500-599)	3	0	3	0	0	0	0	0
Attorneys (905)	2	0	2	0	0	0	0	0
Information & Arts (1000-1099)	1	0	1	0	0	0	0	0
Information Technology Mgmt (2210-2299)	5	0	5	0	0	2	0	7
<b>Total</b>	<b>77</b>	<b>0</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>79</b>
Headquarters Washington D C	77	0	77	0	0	2	0	79
U.S. Fields	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0
<b>Total</b>	<b>77</b>	<b>0</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>79</b>



**Financial Analysis of Program Changes**

**INTERPOL Washington**

**Salaries and Expenses**

(Dollars in Thousands)

Grades	INTERPOL - Washington					
	Program Increases			Program Decreases		
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-13	1	94	0	0	1	94
GS-12	1	85	0	0	1	85
<b>Total Positions and Annual Amount</b>	<b>2</b>	<b>179</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>179</b>
Lapse (-)	-1	-55	0	0	-1	-55
11.5 - Other personnel compensation		0	0	0		0
<b>Total FTEs and Personnel Compensation</b>	<b>1</b>	<b>124</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>124</b>
12.1 - Civilian personnel benefits		55				55
25.1 - Advisory and assistance services		2,392				2,392
25.2 - Other services from non-federal sources		459				459
<b>Total Program Change Requests</b>	<b>1</b>	<b>3,030</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>3,030</b>



## K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
**INTERPOL Washington**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	62	5,953	69	6,975	70	7,766	1	791
11.3 - Other than full-time permanent	0	0	0	0	0	0	0	0
11.5 - Other personnel compensation	0	195	0	318	0	408	0	90
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>62</b>	<b>6,148</b>	<b>69</b>	<b>7,293</b>	<b>70</b>	<b>8,174</b>	<b>1</b>	<b>881</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		1,898		2,320		2,541	0	221
13.0 - Benefits for former personnel		6		6		6	0	0
21.0 - Travel and transportation of persons		338		359		360	0	1
22.0 - Transportation of things		70		66		63	0	-3
23.1 - Rental payments to GSA		3,307		3,342		3,590	0	248
23.2 - Rental payments to others		220		109		214	0	105
23.3 - Communications, utilities, and miscellaneous charges		260		230		241	0	11
24.0 - Printing and reproduction		3		0		0	0	0
25.1 - Advisory and assistance services		5,713		4,139		4,871	0	732
25.2 - Other services from non-federal sources		1,219		1,131		1,220	0	89
25.3 - Other goods and services from federal sources		630		695		830	0	135
25.4 - Operation and maintenance of facilities		86		3		86	0	83
25.6 - Medical care		7		7		7	0	0
25.7 - Operation and maintenance of equipment		23		13		23	0	-6
26.0 - Supplies and materials		26		61		51	0	-10
31.0 - Equipment		216		0		11	0	11
41.0 - Grants, subsidies, and contributions		11,261		13,663		14,588	0	925
<b>Total Obligations</b>		<b>31,431</b>		<b>33,437</b>		<b>36,860</b>	<b>0</b>	<b>3,423</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0	0	0
Transfers/Reprogramming		7		0		0	0	0
Recoveries/Refunds		0		0		0	0	0
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		0		0		0	0	0
Unobligated End-of-Year, Expiring		562		0		0	0	0
<b>Total Direct Requirements</b>		<b>32,000</b>		<b>33,437</b>		<b>36,860</b>		<b>3,423</b>
<b>Reimbursable FTE</b>								
<b>Full-Time Permanent</b>	<b>0</b>		<b>0</b>		<b>0</b>		<b>0</b>	<b>0</b>

Exhibit K - Summary of Requirements by Object Class





ANTITRUST DIVISION

**CONGRESSIONAL SUBMISSION  
FY 2017 PERFORMANCE BUDGET**



# **Antitrust Division**

## **FY 2017 Congressional Budget Submission**

### **Table of Contents**

<b>I. Overview</b>	<b>2</b>
A. Introduction	2
B. Issues, Outcomes, and Strategies	3
C. Full Program Costs	15
D. Performance Challenges	16
<b>II. Summary of Program Changes</b>	<b>17</b>
<b>III. Appropriations Language and Analysis of Appropriations Language</b>	<b>18</b>
<b>IV. Program Activity Justification</b>	<b>19</b>
A. Decision Unit: Antitrust	19
1. Program Description	19
2. Performance and Resource Tables	24
3. Performance Measurement Framework	29
4. Performance, Resources, and Strategies	30
5. Exemplars – Criminal	35
6. Exemplars – Civil	41
<b>V. Program Increases by Item</b>	<b>47</b>
A. Enhanced Antitrust Merger Enforcement and Cartel Prosecution	47
<b>VI. Exhibits</b>	<b>51</b>
A. Antitrust Division Organization Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations (Not Applicable)	
M. Senior Executive Service Reporting (Not Applicable)	



## I. Overview

### A. Introduction

The Antitrust Division is committed to its mission of promoting economic competition through enforcing and providing guidance on antitrust laws and principles. Its vision is an environment in which U.S. consumers receive goods and services of the highest quality at the lowest price and sound economics-based antitrust enforcement principles are applied.

The Division supports the Department's Strategic Goal II, Objective 2.6, "Protect the federal fisc and defend the interests of the United States." In recent years, the Division has aggressively pursued far-reaching criminal cartel activity and important civil matters while reviewing a large number of premerger filings, many involving complex issues and global conglomerates. Merger volume is projected to continue climbing in fiscal years 2016 and 2017 since regaining momentum after the 2008 global economic downturn. To administer its caseload, the Division's request includes \$180,506,000 in FY 2017, reflecting an increase of \$15,529,000 over the FY 2016 Enacted funding levels. In addition to annual cost adjustments of \$529,000, included is a requested program increase of \$15,000,000 to enhance the Division's efforts promoting competition and protecting consumers from economic harm.

It is critical that the Division have adequate resources to keep abreast of a workload, which ever increasingly involves large, multi-national corporations and anticompetitive behaviors that are pervasive and difficult to detect. By protecting competition across industries and geographic borders, the Division's work serves as a catalyst for economic efficiency and growth with benefits accruing to both American consumers and American businesses.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address:  
<http://www.justice.gov/02organizations/bpp.htm>.

- From FY 2009 through the end of FY 2015, as a result of the Division's efforts, over **\$9.1 billion in criminal fines and penalties** were obtained from antitrust violators.
- As a key participant in the President's Financial Fraud Enforcement Task Force, the Division in FY 2015 was instrumental in the Department's investigation of the foreign currency exchange (FX) spot market resulting in the prosecution of five major banks which agreed to plead guilty to felony charges and pay **criminal fines totaling more than \$2.5 billion**.
- **Intellectual property** issues involving patents, copyrights, trademarks, or trade secrets are instrumental in the Division's work. Invention and innovation are critical in promoting economic growth, creating jobs, and maintaining our competitiveness in the global economy. Antitrust laws ensure new proprietary technologies, products, and services are bought, sold, traded and licensed in a competitive environment.



## B. Issues, Outcomes, and Strategies

Fundamental changes continue in the business marketplace, including the expanding globalization of markets, increasing economic concentration across industries, and rapid technological change. These factors, added to the existing number and intricacy of our investigations, significantly impact the Division's overall workload. Many current and recent matters demonstrate the increasingly complex, large, and international nature of the matters encountered by the Division, as the following table and exemplars indicate.

<b>Enforcement Program</b>	<b>Major Matter Exemplars</b>
<b>Criminal</b> DOJ Strategic Goal II Objective 2.6	Financial Fraud Enforcement (see Exemplar - pg. 35) (Real Estate, Securities and Commodities)  Automobile Parts (see Exemplar – pg. 38)  Ocean Shipping (see Exemplar – pg. 40)
<b>Civil</b> <b>Merger/Non-Merger</b> DOJ Strategic Goal II Objective 2.6	<u>Merger (pg. 41)</u> Electrolux/General Electric (see Exemplar – pg. 41)  Chicken of the Sea/Bumble Bee (see Exemplar - pg. 42)  Springleaf/OneMain Financial (see Exemplar – pg. 42)  Comcast/Time Warner Cable (see Exemplar - pg.43)  Applied Materials/Tokyo Electron (see Exemplar – pg. 44)  <u>Non-Merger (pg. 45)</u> American Express, MasterCard and Visa – Credit Card Merchant Restraints (see Exemplar - pg.45)  eBooks (see Exemplar – pg. 46)



### Globalization

Corporate leaders continue to seek a global presence as an element of long-term economic success, and more companies are transacting a significant portion of their business in countries outside of where they are located. For example, in the United States international trade (defined as exports and imports of goods and services) was \$5.1 trillion in FY 2015.<sup>1</sup>

The internationalization of the business marketplace has had a direct and significant impact on antitrust enforcement in general, and specifically, on the Antitrust Division's workload. A significant number of the premerger filings received by the Division

<sup>1</sup> "U.S. International Trade in Goods and Services." *United States Department of Commerce, Bureau of Economic Analysis*, November 2015. Viewed on January 21, 2016 at <http://www.bea.gov/newsreleases/international/trade/2016/pdf/trad1115.pdf>.



involve foreign acquirers, acquirees, major customers and competitors, and/or divestitures.

This also impacts our criminal enforcement program. The Division has witnessed a tremendous upsurge in international cartel activity in recent years. The Division places a particular emphasis on combating international cartels that target U.S. markets because of the breadth and magnitude of the harm that they inflict on American businesses and consumers. Of the grand juries opened through the end of FY 2015, approximately **43 percent** were associated with subjects or targets located in foreign countries. Of the approximate **\$11 billion** in criminal antitrust fines and penalties imposed by the Division between FY 1997 and the end of FY 2015, approximately **98 percent** were in connection with the prosecution of international cartel activity. In addition, approximately **88 foreign defendants** from France, Germany, Italy, Japan, South Korea, Taiwan, the Netherlands, Norway, Sweden, Switzerland and the United Kingdom have served, or have been sentenced to serve, prison sentences in the United States as a result of the Division's cartel investigations.

The Division's criminal enforcement program overall, including enforcement against international cartels, has resulted in an increase in criminal fines. Up until 1994, the largest corporate fine imposed for a single Sherman Act count was \$6 million. Today, fines of \$10 million or more are commonplace, including many fines in excess of \$100 million. In FY 2015, total criminal antitrust fines obtained were just over **\$3.6 billion**.

As a key participant in the President's Financial Fraud Enforcement Task Force, the Division in FY 2015 was instrumental in the Department's investigation of the foreign currency exchange (FX) spot market, which resulted in five major banks agreeing to plead guilty to felony charges. Four banks – Citicorp, JPMorgan Chase & Co., Barclays PLC, and The Royal Bank of Scotland plc – agreed to plead guilty to conspiring to manipulate the price of U.S. dollars and euros exchanged in the FX spot market and to pay criminal fines totaling more than **\$2.5 billion**. The \$925 million fine obtained from one of the banks was the largest criminal fine ever obtained for an antitrust charge. A fifth bank, UBS AG, agreed to plead guilty to manipulating the London Interbank Offered Rate (LIBOR) and other benchmark interest rates and pay a \$203 million criminal penalty, after breaching its non-prosecution agreement resolving the LIBOR investigation. In conjunction with previously announced settlements with regulatory agencies in the United States and abroad, the total fines and penalties paid by these five banks for their conduct in the FX spot market was nearly **\$9 billion**.

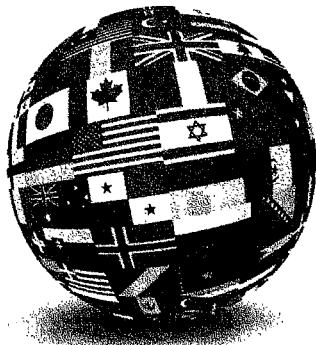
As discussed above, our work no longer takes place solely within the geographic borders of the U.S. In our enforcement efforts we find parties, potential evidence, and impacts abroad, all of which add complexity, and ultimately cost, to the pursuit of matters. Whether that complexity and cost results from having to collect evidence overseas or from having to undertake extensive inter-governmental negotiations in order to depose a foreign national, it makes for a very different, and generally more difficult investigatory process than would be the case if our efforts were restricted to conduct and individuals in the U.S. The markets and competitors affecting U.S. businesses and consumers are more international in scope, and the variety of languages and business cultures that the



Division encounters has increased. Consequently, the Division must spend more for translators and translation software, interpreters, and communications, and Division staff must travel greater distances to reach the people and information required to conduct an investigation effectively and expend more resources to coordinate our international enforcement efforts with other countries and international organizations.

International Competition Advocacy - The Antitrust Division is actively working with international organizations to encourage the adoption, regulation, and enforcement of competition laws as worldwide consensus continues to grow that international cartel activity is pervasive and is victimizing consumers everywhere. From January 1990 to March 2014, North American known affected sales totaled \$4.2 trillion and known overcharges totaled \$31.5 billion.<sup>2</sup> The Antitrust Division's commitment to detect and prosecute international cartel activity is shared with foreign governments throughout the world, resulting in the establishment of antitrust cooperative agreements among competition law enforcement authorities across the globe. To date, the Division has entered into antitrust cooperation agreements with fourteen foreign governments – Australia, Brazil, Canada, Chile, China, Colombia, the European Union, Germany, India, Israel, Japan, Korea, Mexico, and Russia.

In addition, antitrust authorities globally are becoming increasingly active in investigating and punishing cartels that adversely affect consumers. The Division is a strong advocate for effective anti-cartel enforcement around the world. As effective global cartel enforcement programs are implemented and criminal cartel penalties adopted, the overall detection of large, international cartels increases along with the Division's ability to collect evidence critical to its enforcement efforts on behalf of American consumers. In the past decade, dozens of jurisdictions have increased penalties for cartel conduct, improved their investigative powers and introduced or revised amnesty programs. For example, Canada and Mexico have recently adopted or strengthened criminal sanctions for hard core cartel conduct. In addition, jurisdictions such as Australia, Brazil, Canada, Japan, New Zealand, and South Korea have made revisions to their cartel amnesty policies making them more consistent with the United States.



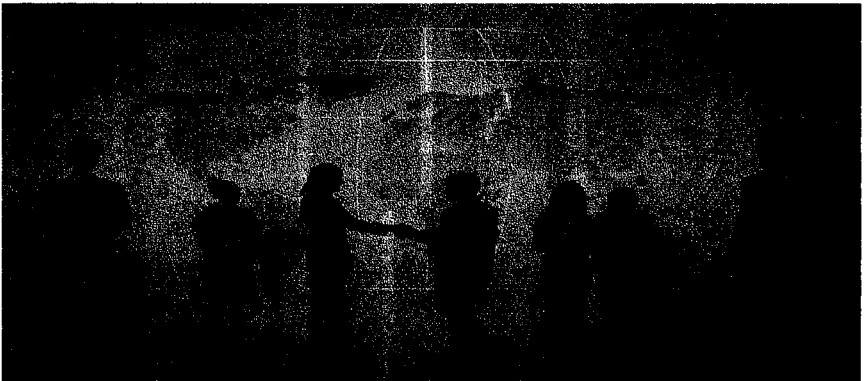
Efforts such as these help enhance global antitrust enforcement and reduce the burden on law abiding companies that operate in international markets. In addition, they promote international uniformity and help bring cartel prosecution in line with international best practices.

<sup>2</sup> Connor, John M. "The Private International Cartels (PIC) Data Set: Guide and Summary Statistics, 1990-2013" (2014): 31. Viewed on January 15, 2016 at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2478271](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2478271). Available at SSRN 247827.



The Division continues to prioritize international cooperation, procedural fairness and, where appropriate, antitrust policy convergence and pursues these goals by working closely with multilateral organizations, strengthening its bilateral ties with antitrust agencies worldwide, and working with countries that are in the process of adopting antitrust laws.

In October 2001, with leadership from the Antitrust Division, the International Competition Network (ICN), comprised of competition authorities from 14 jurisdictions, was launched. The Division continues to play an important role in achieving consensus, where appropriate, among antitrust authorities on sound competition principles and also provides support for new antitrust agencies in enforcing their laws and building strong competition cultures. As of 2015, the ICN has grown to include 132 agencies from 119 jurisdictions. The 14th annual conference of the ICN was held in Sydney, Australia in April 2015 where ICN members adopted guidance on investigative process in competition cases and approved new work on international merger enforcement cooperation, legal theories in tying and bundling investigations and interaction with government procurement agencies.

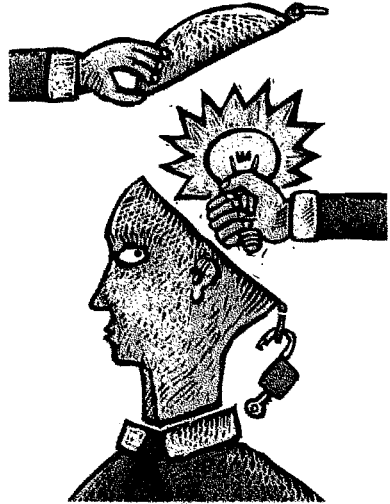


### **Intellectual Property**

Invention and innovation are critical in promoting economic growth, creating jobs, and maintaining our competitiveness in the global economy. Intellectual property (IP) laws create exclusive rights that provide incentives for innovation. Antitrust laws ensure that new proprietary technologies, products, and services are bought, sold, traded and licensed in a competitive environment. Together, antitrust enforcement and the protection of intellectual property rights create an environment that promotes the innovation necessary for economic success. Issues involving patents, copyrights, trademarks, or trade secrets, arise in the Division's antitrust enforcement investigations, international competition advocacy, interagency initiatives, business review letters, and amicus filings in court cases. A number of these areas are highlighted below.



Patent Assets in Antitrust Cases and Business Reviews - The Division analyzes acquisition of significant patent assets closely to ensure competition is protected and invention and innovation are advanced. The Division also investigates allegations that companies are using their intellectual property in a way that violates the antitrust laws, and challenges those activities where appropriate.



In addition, the Division has a business review process that enables companies concerned about the legality of proposed activity under the antitrust laws to ask the Department of Justice for a statement of its current enforcement intentions with respect to that activity. After completing an investigation, the Department publishes its business review letter. This procedure provides the business community an important opportunity to receive guidance from the Department with respect to the scope, interpretation, and application of the antitrust laws to particular proposed activity. The Department has issued a number of business reviews relating to intellectual property, including letters relating to patent pooling agreements and proposed IP policies of standard-setting organizations. In February 2015, the Division analyzed a proposed update by the Institute of Electrical and Electronics Engineers, Inc. (IEEE) to its standards association's patent policy. The policy governs the incorporation of patented technologies in IEEE standards. The update would clarify the terms under which owners of patents needed to implement IEEE standards voluntarily agree to license such patents. The Division concluded that it was unlikely to challenge the proposed update if IEEE were to adopt it. This letter continues the Division's effort to provide standards-setting organizations and the high-tech community with guidance regarding the boundaries of procompetitive standards-setting activities.

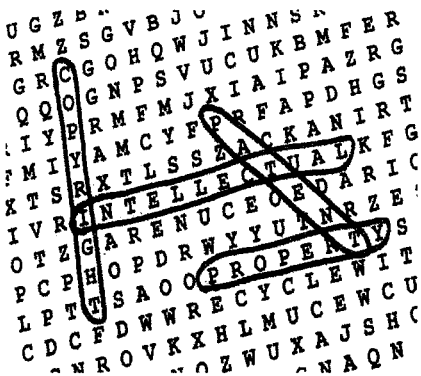
International Advocacy - The Division regularly engages in international competition advocacy projects promoting the use of sound analysis of competition complaints involving intellectual property rights in multinational fora, such as the World Intellectual Property Organization, the Organization for Economic Cooperation and Development, and the Asian Pacific Economic Cooperation, and with our antitrust enforcement counterparts in other jurisdictions, including China, the European Commission, India, Japan, and Korea.

To ensure that U.S. businesses may appropriately utilize their important intellectual property rights, it is crucial that other jurisdictions approach the intersection of antitrust and intellectual property in ways that promote both competitive markets and respect for intellectual property rights. The Division devotes substantial time and effort to advocating that all jurisdictions enforce competition laws in ways that create the right incentives for innovative activity to take place. In a September 2014 speech, Assistant Attorney General for Antitrust Bill Baer expressed concern about foreign antitrust



regimes that take action against IP owners “that is not necessary to remedy the actual harm to competition” and thereby “diminish incentives of existing and potential licensors to compete and innovate over the long term, depriving jurisdictions of the benefits of an innovation-based economy.” The Division continues to focus on best practices to analyze the competitive impact of standard-setting activities involving intellectual property rights and of the pooling of patents. In December 2014, the Division participated in a hearing on competition, standards, and patents sponsored by the OECD Competition Committee.

Interagency Initiatives - The Division regularly participates in interagency activities that promote competition advocacy where antitrust and intellectual property law and policy intersect.



In January 2013, the Division and the U.S. Patent & Trademark Office (PTO) issued a policy statement recommending that the U.S. International Trade Commission (ITC) undertake fact-based, case-specific decisions regarding the enforcement of a patent essential to a standard that is encumbered by a commitment to license that patent on reasonable and non-discriminatory (RAND) or fair, reasonable, and nondiscriminatory (FRAND) terms to those implementing the standard. When appropriately taking the effect of its exclusion order remedies on

competitive conditions in the U.S. economy and on U.S. consumers into account, it may be inconsistent with the public interest to issue an exclusion order in cases where the infringer is acting within the scope of the patent holder’s F/RAND commitment and is able, and has not refused, to license the patent on F/RAND terms. In a well-publicized matter, the U.S. Trade Representative recently cited extensively to the statement when disapproving an ITC exclusion order for the first time in over two decades.

Appellate Filings - The Division’s views concerning the possibility of a government amicus brief, or the content of an amicus brief in response to an invitation from the court, are routinely sought in most intellectual property cases in the Supreme Court and some in the courts of appeals. The Division provides its views in cases that have a significant potential to affect competition and may in other ways contribute actively to the development of a brief.

In March 2015, responding to a request from the Court of Appeals for the Second Circuit, the Antitrust Division submitted a letter brief explaining its view that under a Division consent decree that governs the music licensing practices of the American Society of Composers, Authors and Publishers (ASCAP), ASCAP cannot accept partial grants of public performance rights from its members. The Department currently is undertaking a review of the ASCAP decree, and a similar decree with Broadcast Music, Inc., to examine the operation and effectiveness of the decrees and whether they should be modified.



### Economic Concentration

Ongoing economic concentration across industries and geographic regions also increases the Division's workload. Where there is a competitive relationship between or among the goods and/or services produced by the parties, the analysis necessary for thorough merger review becomes more complex. Competitive issues and efficiency defenses are more likely to surface in such reviews, adding complexity and cost to the Division's work.

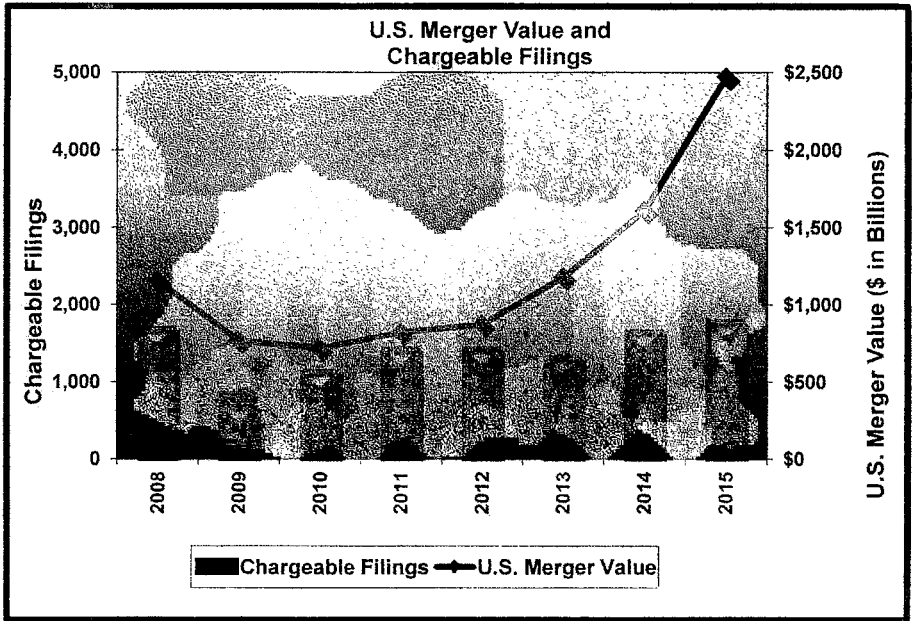


Figure 1

As shown in Figure 1, the overall economic downturn that began in calendar year 2008 resulted in a drop in merger deals in 2009 and the year finished with \$767 billion in U.S. merger value. However, merger and acquisition activity improved in calendar year 2010 and has steadily increased each year since. In calendar year 2015, worldwide merger and acquisition volume reached \$5.05 trillion, a record high, and U.S. volume reached its highest level on record, with an annual total of \$2.47 trillion.<sup>3</sup>

<sup>3</sup> "Global M&A Review - Full Year 2015" *Dealogic Quarterly Reviews*, January 2016. Viewed on January 12, 2016 at <http://www.dealogic.com/it-media/1440/dealogic-global-ma-review-full-year-2015.pdf>.



Relative stability around the globe as well as moderate growth from corporations has created a level of optimism among investment bankers not seen in recent years. According to the KPMG 2016 M&A (Mergers and Acquisitions) Outlook Survey Report, 91 percent of M&A professionals surveyed are planning at least one acquisition in 2016.<sup>4</sup>

### Technological Change and the Changing Face of Industry

Technological change continues to create new businesses and industries virtually overnight, and its impact on the overall economy is enormous. The emergence of new and improved technologies in robotics, transportation, wireless communications, Over-the-Top (OTT) services such as Voice over Internet Protocol (VoIP) and mobile collaboration, biometrics and online security continues and intensifies.

We will see even more advances in technology in coming years as the telecommunications upheaval continues to transform services traditionally offered to subscribers by network operators, such as voice calls, messaging and video content delivery. Global mobile subscriptions reached close to 7.4 billion in 2015 and are expected to grow to 9.1 billion by 2021 according to the Ericsson Mobility Report, published by Ericsson in November 2015.<sup>5</sup>



Clearly, being ‘connected’ while on-the-go has become essential to the American daily lifestyle, and this connectivity demand continues to result in rapidly emerging newer and faster networks, services, applications and equipment. By 2021, it’s estimated that globally 90 percent of people aged six years and over will have mobile phones and the number of smartphone subscriptions alone is set to reach 6.4 billion, a substantial increase over the 3.4 billion smartphone subscriptions in 2015. Mobile video traffic is set by 2021 to grow to around 70 percent of all mobile data traffic, an increase of 20% over 2015 traffic levels.<sup>6</sup>

<sup>4</sup> “2016 M&A Outlook Survey Report.” KPMG, December 2015: 6. Viewed on January 12, 2016 at <http://info.kpmg.us/content/dam/info/ma-survey2016/pdf/2016-ma-outlook.pdf>.

<sup>5</sup> Qureshi, Rima. “Ericsson Mobility Report – On the Pulse of the Networked Society.” *Ericsson*, November 2015: 2. Viewed on January 12, 2016 at <http://www.ericsson.com/res/docs/2015/mobility-report/ericsson-mobility-report-nov-2015.pdf>.

<sup>6</sup> Qureshi, Rima. “Ericsson Mobility Report – On the Pulse of the Networked Society” *Ericsson*, November 2015: 2, 14. Viewed on January 12, 2016 at <http://www.ericsson.com/res/docs/2015/mobility-report/ericsson-mobility-report-nov-2015.pdf>.



As more consumers turn to Over-the-Top services (Internet or broadband-based services that replicate services traditionally offered to subscribers by network operators, such as messaging, voice calls and video content delivery) expanding technologies such as wireless video streaming and Voice over Internet Protocol (VoIP), stand to grow dramatically over the next several years. According to Digital TV Research, OTT revenue is expected grow to \$51.1 billion in 2020 compared to \$26.0 billion expected in 2015.<sup>7</sup>



The continuing evolution of technology, as it reshapes both industries and business processes worldwide, creates new demands on the Antitrust Division. The economic paradigm is shifting so rapidly that the Division must employ new analytical tools, which allow it to respond quickly and appropriately. It must be vigilant against anticompetitive behavior in the new economy where the Internet and cutting-edge information technology may facilitate the rapid entry and dominance of emerging markets.

### **Technological Change and Information Flows**

Technological change is occurring at a blistering pace, as evidenced by the proliferation of wireless communication enhancements; the near daily evolution of mobile handheld devices, computer components, peripherals and software; and the growing use of video conferencing technology to communicate globally.

As the tools of the trade become more sophisticated, there appears to be a corresponding growth in the subtlety and complexity with which prices are fixed, bids are rigged, and market allocation schemes are devised. The increased use of electronic mail, and even



faster, more direct methods of communication, such as text and instant messaging, has fostered this phenomenon. Moreover, the evolution of electronic communication results in an increase in the amount and variety of data and materials that the Antitrust Division must obtain and review in the course of an investigation. In addition to hard-copy documents, telephone logs, and other information from public

sources, including the Internet, the Division now regularly receives magnetic tapes, CD's, and computer servers containing the e-mail traffic and documents of companies under investigation.

<sup>7</sup> "OTT TV & video revenues to rocket to \$51 billion." *Digital TV Research*, June 15, 2015. Viewed on January 14, 2016 at <https://www.digitaltvresearch.com/press-releases?id=127>.



## Results

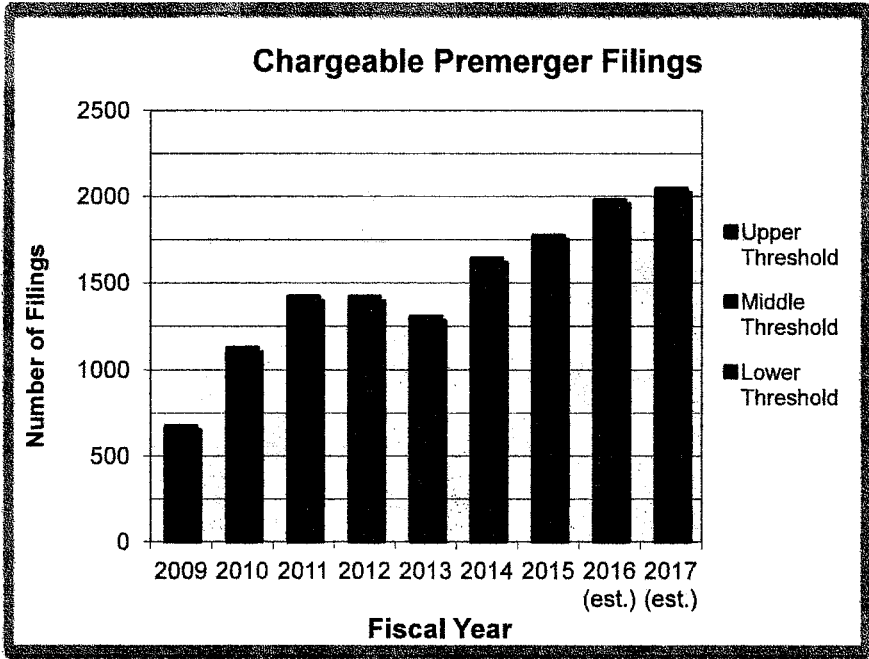
While specific GPRA Performance Measures are addressed in the Decision Unit Justification section of this submission, several interesting statistics relative to the Division's performance include:

- From FY 2009 through the end of FY 2015, as a result of the Division's efforts, over **\$9.1 billion in criminal fines and penalties** were obtained against antitrust violators. In FY 2015 alone the Division obtained just over **\$3.6 billion in criminal fines**, the first time the Division has reached this level of obtained fines and penalties in its history.
- In the area of criminal enforcement, the Division continues to move forcefully against hard-core antitrust violations such as price-fixing, bid rigging and market allocation agreements. A significant number of our prosecutions have involved international price-fixing cartels, impacting billions of dollars in U.S. commerce. **Since FY 1997, defendants have been sentenced to pay approximately \$11 billion in criminal fines and penalties to the U.S. Treasury, including more than \$7 billion just since the beginning of FY 2008.**
- The Division believes that individual incarceration has a greater deterrent effect than fines alone and continues to emphasize prison terms for individuals who participate in antitrust criminal behavior. In FY 2015, as the result of Division enforcement efforts, 15 corporations and 15 individuals were sentenced due to antitrust violations. Prison sentences between FY 2000 and the end of FY 2015 were an **average of approximately 22 months**, close to three times the 8-month average sentence of the 1990's. Prison sentences since FY 1990 have resulted in **approximately 720 years of imprisonment** in cases prosecuted by the Antitrust Division, with **255 defendants** sentenced to imprisonment of one year or longer.
- Coupled with the increasing frequency and duration of defendants' incarceration was a rise in monetary restitution by criminal defendants. From FY 2004 through the end of FY 2015, restitution generated by the Division was approximately **\$102 million**.
- Despite a workload of increasingly complex cases, the Antitrust Division has made great strides in combating anticompetitive behavior across industries and geographic borders and has saved consumers billions of dollars by ensuring a competitive and innovative marketplace. **Since FY 1998, the first year for which data is available, the Division, through its efforts in all three enforcement areas - merger, criminal and civil non-merger - is estimated, conservatively, to have saved consumers \$45 billion.**



### Revenue Assumptions

Estimated FY 2016 - 2017 filings and fee revenue take into account the relative optimism of current medium-range economic forecasts. In the August 2015 update to its "Budget and Economic Outlook: 2015 to 2025", the Congressional Budget Office predicts that "economy will expand...at a solid pace in calendar years 2016 and 2017, and at a more moderate pace in subsequent years."<sup>8</sup>



Premerger Filing Fee Thresholds Effective Feb 20, 2015	
Value of Transaction	Filing Fee
Lower: \$76.3M - <\$152.5M	\$45,000
Middle: \$152.5M - <\$762.7M	\$125,000
Upper: \$762.7M plus	\$280,000

Figure 2

(Consistent with statutory direction, pre-merger filing fee threshold amounts are adjusted annually based on the U.S. Gross Domestic Product Index and are reflected in the table above)

Based upon estimates calculated by the Congressional Budget Office and the Federal Trade Commission (FTC), fee collections of \$256 million for FY 2017 are expected. Hart-Scott-Rodino (HSR) filing fee revenue is collected by the FTC and divided evenly with the Antitrust Division. The Budget proposes to increase the HSR fees and index them for the percentage annual change in the gross national product. The fee proposal would also create a new merger fee category for mergers valued at over \$1 billion. Under the proposal, the fee increase would take effect in 2018 and would potentially bring in fee revenues of \$378 million.

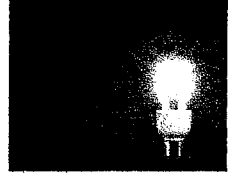
<sup>8</sup> "An Update to the Budget and Economic Outlook: 2015 to 2025." *Congressional Budget Office*, August 2015. 1. Viewed on January 21, 2016 at <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50724-BudEconOutlook-3.pdf>.



## Environmental Accountability

The Antitrust Division is mindful of responsible environmental management and has implemented processes to encourage awareness throughout the Division, including:

- Adherence to environmental standards during the procurement process to ensure products meet the recommended guidelines of the Department of Energy's energy efficiency standards, the Environmental Protection Agency's designated recovered material and bio-based products specifications, and the Department of Justice's Green Purchase Plan requirements.
- The Antitrust Division's central Washington D.C. Liberty Square building meets many LEED (Leadership in Energy and Environmental Design) criteria and includes many environmentally sound features including: zoned climate control for efficiencies in heating and air conditioning, motion sensed overhead lighting to minimize wasted energy in unoccupied space, and a building wide recycling program for paper, plastic, glass, and newspaper.
- The Division encourages employees to print documents only when absolutely necessary and, whenever possible, print double-sided in an effort to save paper.



The Division will continue to implement additional programs as further guidance is received from the Department, Administration and Congress.

## Summary

The Division is continually challenged by an increasingly international and complex workload that spans enforcement areas and requires considerable resources to manage. With our children destined to inherit the resulting markets, the importance of preserving economic competition in the global marketplace cannot be overstated. The threat to consumers is very real, as **anticompetitive behavior leads directly to higher prices and reduced efficiency and innovation**. In recognition of the importance of its mission, the Antitrust Division requests a total appropriation of \$180,506,000 in support of 982 positions and 771 estimated FTE. This includes a requested program increase of \$15,000,000, 152 positions, and 77 FTE to enhance the Division's efforts promoting competition and protecting consumers from economic harm.

The FY 2017 Antitrust Division budget request of \$180,506,000 supports Departmental Strategic Goal II: Prevent Crime, Protect the Rights of the American People and Enforce Federal Law. The Division's criminal and civil programs are both included in Strategic Objective 2.6: "Protect the federal fisc and defend the interests of the United States."



**FY2017 Total Budget Request by Strategic Goal  
Strategic Goal II – Strategic Objective 2.6**



**Figure 3**

**C. Full Program Costs**

The Antitrust Division contains one Decision Unit (Antitrust). Within this Decision Unit the Division supports the Department's Strategic Goal II: "Prevent Crime, Protect the Rights of the American People and Enforce Federal Law". This Strategic Goal defines the two broad program areas:

- Criminal Enforcement
- Civil Enforcement

In recent years, approximately 40 percent of the Division's budget and expenditures can be attributed to its criminal program and approximately 60 percent of the Division's budget and expenditures can be attributed to its civil program. The FY 2017 budget request assumes this same allocation.

This budget request incorporates all costs to include mission costs related to cases and matters, mission costs related to oversight and policy, and overhead.



## D. Performance Challenges

### External Challenges

As detailed in the Issues, Outcomes, and Strategies section, the Antitrust Division faces many external challenges that require flexibility and adaptability in order to pursue its mission. These external challenges include:

- Globalization of the business marketplace
- Increasing economic concentration across industries and geographic regions
- Rapid technological change

### Internal Challenges

Much like its external challenges, highly unpredictable markets and economic fluctuations influence the Division's internal challenges. To accommodate these ever-changing factors, the Division must continuously and diligently ensure proper allocation and prudent use of its resources.

### Information Technology (IT) Expenditures

The Antitrust Division's IT budget will continue to support several broad Information Technology areas essential to carrying out its mission. These Information Technology areas include:

- *Data Storage* –Electronic storage and processing capability, vital to the mission of the Antitrust Division, continues to expand, growing exponentially since FY 2003, when 12 terabytes (12 trillion bytes) of capacity readily satisfied Division demands. By FY 2010 requirements surpassed 100 terabytes and the Division expects electronic analytical capacity needs to **reach 785 terabytes (TB) by FY 2016 and 1148 TB by FY 2017.**
- *Data Security* - - Monitoring and effecting actions to ensure that system design, implementation, and operation address and minimize vulnerabilities to various threats to computer security, including carrying out security planning, risk analysis, contingency planning, security testing, intrusion detection, and security training.
- *Litigation Support Systems* - - Providing litigation support technologies that encompass a wide range of services and products that help attorneys and economists acquire, organize, develop, and present evidence. Providing courtroom presentation and related training to the legal staff to develop staff courtroom skills and practice courtroom presentations using state-of-the-art technology.



- *Office Automation* - - Providing staff technological tools comparable to those used by opposing counsel, thereby ensuring equitable technological capabilities in antitrust litigation. These tools are used for desktop data review and analysis, computer-based communication, the production of time-critical and sensitive legal documents, and preparing presentations and court exhibits.
- *Management Information Systems* - - Developing, maintaining, and operating data and information systems which support management oversight, direction of work, budget, and resources of the Division. Various tracking systems help ensure timely and efficient conduct of the Division's investigations through use of automated, web-based tools.
- *Telecommunications* - - Developing, providing, maintaining, and supporting networks and services required for voice and data communications among the Division's offices, with outside parties, and in support of federal telework objectives.
- *Web Support* - - Developing and maintaining the Division's Internet and internal ATRnet site. Posting case filings, documents and data related to cases and investigations; designing and developing new applications, providing public access to key Division information, and ensuring compliance with web standards and guidelines, including guidelines for usability and accessibility.

## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>Enhanced Antitrust Merger Enforcement and Cartel Prosecution</b>	<b>To enhance the Division's efforts promoting competition and protecting consumers from economic harm.</b>	<b>152</b>	<b>77</b>	<b>\$15,000</b>	<b>47</b>

Additional resources of \$15,000,000, 152 positions (98 attorneys), and 77 FTE are requested to address the increase in workload for ATR in both its civil merger enforcement and criminal cartel enforcement programs. With merger and cartel enforcement work expected to increase in FY 2016 and FY 2017, the requested program enhancement will help meet the challenges presented by this increased activity and enable the Division to continue protecting American consumers from anticompetitive merger deals and domestic and international cartels that harm U.S. consumers and businesses.

Approximately two-thirds of ATR's funding is derived from HSR premerger filing fees paid by companies planning to merge. Chargeable premerger filings are expected to continue increasing in FY 2017 resulting in HSR filing fee revenue offsetting the Division's FY 2017 request by an estimated \$128.0 million.



### III. Appropriations Language and Analysis of Appropriations Language

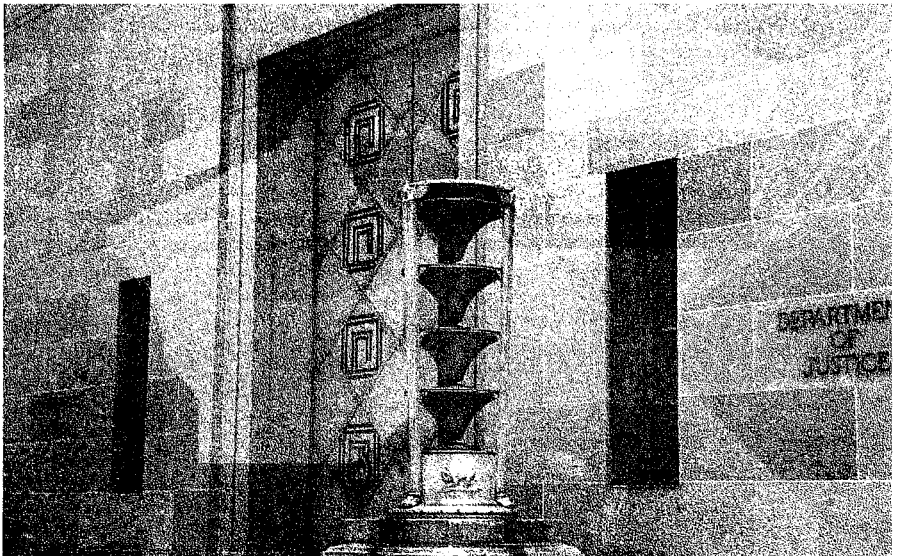
#### Appropriations Language

##### Salaries and Expenses, Antitrust Division

For expenses necessary for the enforcement of antitrust and kindred laws, [\$164,977,000] \$180,506,000 to remain available until expended: Provided, That, notwithstanding any other provision of law, fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18a), regardless of the year of collection (and estimated to be [\$124,000,000] \$128,000,000 in fiscal year [2016] 2017), shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as such offsetting collections are received during fiscal year [2016] 2017; so as to result in a final fiscal year [2016] 2017 appropriation from the general fund estimated at [\$40,977,000] \$52,506,000.

#### Analysis of Appropriations Language

No substantive changes proposed.





#### IV. Program Activity Justification

##### A. Decision Unit: Antitrust

<b>Antitrust Division</b> <b>Fiscal Year 2017 Congressional Budget Submission</b> <b>Decision Unit Justification</b> (dollars in thousands)			
<b>Decision Unit: Antitrust - TOTAL</b>	<b>Direct Positions</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	830	638	\$162,246
2016 Enacted	830	694	\$164,977
Adjustments to Base and Technical Adjustments	0	0	\$529
2017 Current Services	830	694	\$165,506
2017 Program Increases	152	77	\$15,000
2017 Request	982	771	\$180,506
<b>Total Change 2016 - 2017</b>	<b>152</b>	<b>77</b>	<b>\$15,529</b>

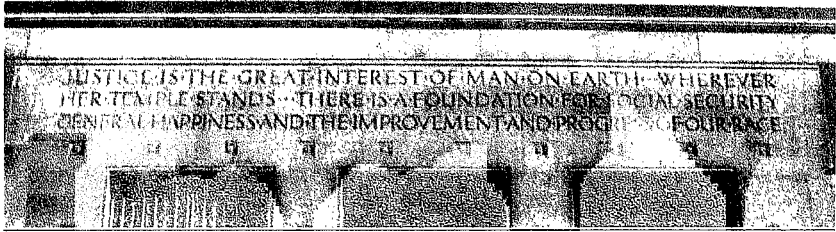
Note: FY 2015 FTE is actual.

##### 1. Program Description

The Antitrust Division promotes competition and protects consumers from economic harm by enforcing the Nation's antitrust laws. Free and open competition benefits consumers by ensuring lower prices and new and better products. The perception and reality among consumers and entrepreneurs that the antitrust laws will be enforced fairly and fully is critical to the economic freedom of all Americans. Vigorous competition is also critical to assure the rapid innovation that generates continued advances in our standard of living and our competitiveness in world markets.

At its highest level, the Division has two main strategies - Criminal and Civil. All of the Division's activities can be attributed to these two strategies and each strategy includes elements related to investigation, prosecution, and competition advocacy. To direct its day-to-day activities, the Division has established five supervisory Deputy Assistant Attorney General (DAAG) positions reporting directly to the Assistant Attorney General. Each of these DAAGs has oversight of a specific program including Civil Enforcement, Criminal Enforcement, Litigation, Operations, and Economic Analysis.





**Criminal Enforcement** - Within the Criminal strategy, the Antitrust Division must address the increased globalization of markets, constant technological change, and a large number of massive criminal conspiracies the Division is encountering. These matters transcend national boundaries, involve more technologically advanced and subtle forms of criminal behavior, and impact more U.S. businesses and consumers than ever before. The requirements -- whether in terms of staff time, travel and translation costs, or automated litigation support -- of fighting massive criminal conspiracies effectively is great. Matters such as the Division's ongoing investigation in the auto parts industry (page 38) exemplify the increasingly complex nature of Division workload in the criminal area and demonstrate that successful pursuit of such matters takes time and resources.

**Civil Enforcement** - Under the Civil strategy, the Division seeks to promote competition by blocking potentially anticompetitive mergers before they are consummated and pursuing non-criminal anticompetitive behavior such as group boycotts and exclusive dealing. The Division's Civil strategy seeks to maintain the competitive structure of the national economy through investigation and litigation of instances in which monopoly power is sought, attained, or maintained through anticompetitive conduct and by seeking injunctive relief against mergers and acquisitions that may tend substantially to lessen competition. The Division's Merger Review work can be divided into roughly three categories:

- Review of HSR transactions brought to our attention by statutorily mandated filings
- Review of non-HSR transactions (those not subject to HSR reporting thresholds); and
- Review of bank merger applications.

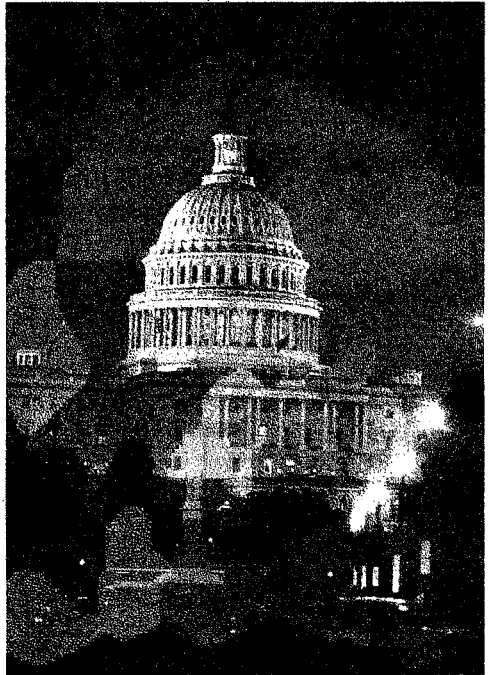


**Competition Advocacy** - As an advocate of competition, the Antitrust Division seeks the elimination of unnecessary regulation and the adoption of the most competitive means of achieving a sound economy through a variety of activities on the national and international stages. Areas in which the Division pursues competition advocacy initiatives include:

*Regulatory Issues* - The Antitrust Division actively monitors the pending actions of federal, state, and local regulatory agencies either as statutorily mandated, as in the case of telecommunication and banking markets, or through review of those agencies' dockets and industry or other publications and through personal contacts in the industries and in the agencies. Articulation of a pro-competitive position may make the difference between regulations that effectively do no antitrust harm and actively promote competitive regulatory solutions and those that may negatively impact the competitiveness of an industry. Examples of regulatory agencies before which the Division has presented an antitrust viewpoint include the Federal Communications Commission, Securities and Exchange Commission and the Federal Energy Regulatory Commission.

*Review of New and Existing Laws* - Given the dynamic environment in which the Antitrust Division must apply antitrust laws, refinements to existing law and enforcement policy are a constant consideration. Division staff analyzes proposed legislation and draft proposals to amend antitrust laws or other statutes affecting competition. Many of the hundreds of legislative proposals considered by the Department each year have profound impacts on competition and innovation in the U.S. economy. Because the Division is the Department's sole resource for dealing with competition issues, it significantly contributes to legislative development in areas where antitrust law may be at issue.

For example, the Division has filed numerous comments and provided testimony before state legislatures and real estate commissions against proposed legislation and regulations that forbid buyers' brokers from rebating a portion of the sales commission to the consumer or that require consumers to buy more services from sellers' brokers than they may want, with no option to waive the extra items.





*Education, Speeches, and Outreach* – The Division seeks to reach the broadest audience in raising awareness of competition issues and, to do so, provides guidance through its business review program, outreach efforts to business groups and consumers, and the publication of antitrust guidelines and policy statements aimed at particular industries or issues. Division personnel routinely give speeches addressing these guidelines and policy statements to a wide variety of audiences including industry groups, professional associations, and antitrust enforcers from international, state, and local agencies.

In addition, the Division seeks opportunities to deploy its employees to serve the needs of the federal government for a broad variety of policy matters that involve competition policy to include:

- Detailing Division employees to federal agencies and other parts of the Administration and
- Actively participating in White House interagency task forces in areas such as Internet Policy Principles, standard setting, and Accountable Care Organization (ACO) implementation.

*International Advocacy* – The Antitrust Division continues to work toward bringing greater cooperation to international enforcement, promoting procedural fairness and transparency both at home and abroad, and achieving greater convergence, where appropriate, to the substantive antitrust standards used by agencies around the world.



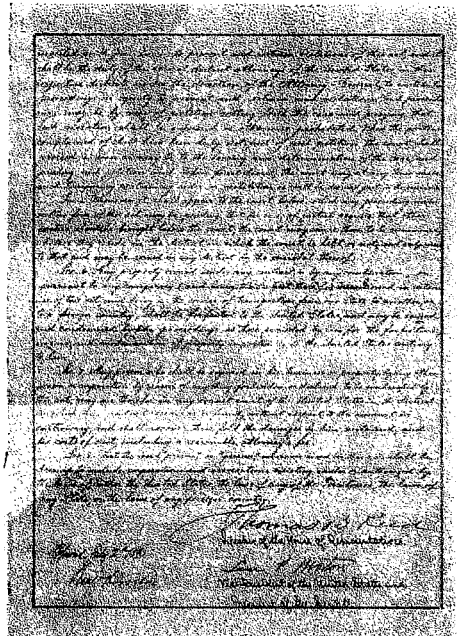
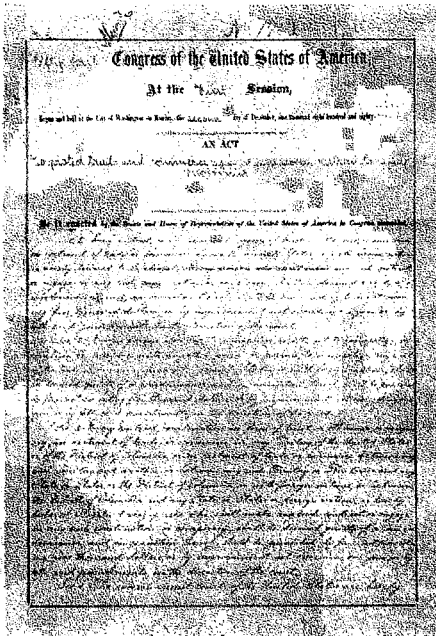
The Division pursues these goals by working closely with multilateral organizations, strengthening its bilateral ties with antitrust agencies worldwide, and working with countries that are in the process of adopting antitrust laws. One of the most notable examples of the Division's international efforts includes its participation in the International Competition Network (ICN). In April 2015, at its 14th annual conference in Sydney, Australia with more than

500 delegates and competition experts from more than 70 antitrust agencies in attendance, members adopted guidance on investigative process in competition cases and approved new work on international merger enforcement cooperation, legal theories in tying and bundling investigation and interaction with government procurement agencies.

With support from the Antitrust Division, the Organization for Economic Cooperation and Development (OECD) and the International Competition Network (ICN) are assisting substantially in Division efforts to achieve a more transparent, and where appropriate, uniform worldwide application of central antitrust enforcement principles.



**Laws Enforced:** There are three major federal antitrust laws: the Sherman Antitrust Act (pictured below), the Clayton Act and the Federal Trade Commission Act. The Sherman Antitrust Act has stood since 1890 as the principal law expressing the United States' commitment to a free market economy. The Sherman Act outlaws all contracts, combinations and conspiracies that unreasonably restrain interstate and foreign trade. The Department of Justice alone is empowered to bring criminal prosecutions under the Sherman Act. The Clayton Act is a civil statute (carrying no criminal penalties) that was passed in 1914 and significantly amended in 1950. The Clayton Act prohibits mergers or acquisitions that are likely to lessen competition. The Federal Trade Commission Act prohibits unfair methods of competition in interstate commerce, but carries no criminal penalties.



(An Act to protect trade and commerce against unlawful restraints and monopolies ("Sherman Antitrust Act"), July 2, 1890; 51st Congress, 1st Session, Public Law #190; Record Group 11, General Records of the U.S.)



## 2. Performance and Resource Tables

## Decision Unit/Program: Antitrust

## DOJ Strategic Goal II: Strategic Objective 2.6: Criminal, Civil

WORKLOAD/RESOURCES		Target	Actual	Projected		Changes		Requested (Total)
		FY 2015	FY 2015	FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Workload - Number of HSR Transactions Received		1,635	1,635	1,635				1,635
		FTE	FTE	FTE	FTE	FTE	FTE	
Total Costs and FTE		\$000	\$000	\$000		\$000		\$000
Antitrust		854	\$162,246	694		//		\$180,506
TYPE/ Strategic Objective	PERFORMANCE/RESOURCES	FY 2015	FY 2015	FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	FTE	FTE	FTE	FTE	FTE	
Program Activity	1. Criminal	262	\$64,899	174		30		204
								\$72,202
Performance Measure - Criminal	Number of Active Grand Juries	75	75	75				75
	Dollar Volume of U.S. Commerce Affected in Relevant Markets Where Pleas/Cases Favorably Resolved (\$ in millions)	Not Projected	Not Projected	Not Projected		Not Projected		Not Projected
Program Activity	2. Civil	FTE	FTE	FTE	FTE	FTE	FTE	\$000
		392	\$97,348	520		47		\$9,318
								\$108,304



TYPE/Strategic Objective	PERFORMANCE/RESOURCES	Target	Actual	Projected	Changes	Requested (Total)
		FY 2015	FY 2015	FY 2016	Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request
Performance Measure – Merger	Number of Preliminary Inquiries Opened	70	67	70	0/0	70
Performance Measure – Civil Non-Merger	Number of Active Investigations	70	67	70	0/0	70
Performance Measure – Civil Merger and Non-Merger	Dollar Volume of U.S. Commerce Affected in Relevant Markets for all Merger Wins and All Non-Merger Pleas/Cases Favorably Resolved (\$ in millions)	Not Projected	\$216,599	Not Projected	Not Projected	Not Projected
<b>Outcome – Criminal, Civil (Merger and Civil Non-Merger)</b>						
Consumer Savings	Criminal - Total Dollar Value of Savings to U.S. Consumers (\$ in millions)	Not Projected	\$107	Not Projected	Not Projected	Not Projected
	Civil - Total Civil (Merger and Non-Merger) Dollar Value of Savings to U.S. Consumers (\$ in millions)	Not Projected	\$2,567	Not Projected	Not Projected	Not Projected
Success Rates	Criminal - Percentage of Cases Favorably Resolved	90%	96%	90%	0	90%
	Civil - Percentage of Cases Favorably Resolved	80%	80%	80%	0	80%

TABLE DATA DEFINITIONS:

Program Activity Data Definition, Validation, Verification, and Limitations:

Criminal, Civil Merger and Civil Non-Merger performance measure target adjustments for FY 2015 through FY 2017 projections are based on an analysis of FY 2007 through FY 2015 actual amounts.

**Criminal Performance Measure:**

During the course of the year, if the Antitrust Division subpoenas individuals to, questions witnesses before, presents information to, or otherwise has contact with a grand jury for one of our investigations, it is considered an Active Grand Jury. In some instances, the Division may conduct an investigation during the course of the year, but not bring witnesses before or present evidence to the applicable grand jury until a subsequent year. For example, it may require a significant amount of investigatory time or coordination with foreign enforcement authorities to obtain critical evidence for presentation to a grand jury. Such instances are also considered Active Grand Juries.

The Dollar Volume of U.S. Commerce Affected is estimated by the Antitrust Division based upon the best available information from investigative and public sources. It serves as a proxy for the potential effect of anticompetitive behavior. Suspect conspiracies are more extensive, sometimes far more extensive, than are formally charged in an indictment; hence we believe that the Dollar Volume of U.S. Commerce Affected is an underestimate of the actual value. In estimating the Dollar Volume of Commerce Affected in a criminal investigation, staffs include the sales of all products affected by the conspiracy.



#### Civil Performance Measures:

When a merger filing initially is received through the HSR process, or the Antitrust Division identifies a potentially anticompetitive Non-HSR merger, we develop information from the filing, the parties or complainant, trade publications, and other public sources. Once we develop a sufficient factual and legal basis for further investigation, a Preliminary Inquiry (PI) may be authorized. Once authorized, we investigate further and make a determination about whether to proceed by Second Request or Civil Investigative Demand (CID), or to close the PI. A PI may take from a few weeks to several months to conduct. Thus a PI is often more than a quick assessment, which is usually done when a matter is initially received or identified, and necessarily precedes a Second Request or CID investigation. It is a critical step in the investigatory process and the Number of PIs Opened is indicative of the Division's baseline workload.

**Number of Active Investigations** is indicative of Division's baseline civil non-merger workload. Staff identifies and investigates alleged violations of Section 1 and 2 of the Sherman Act and Section 3 of the Clayton Act. Many times, civil non-merger investigations take more than a year to develop sufficient evidence to file a case or close the investigation. Because staff may be working on an investigation for more than a year, this indicator accounts for the number of investigations with hours actually reported during the fiscal year, as opposed to the number of open investigations during the fiscal year.

**The Dollar Volume of U.S. Commerce Affected in Relevant Markets for All Merger Wins and all Non-Merger Pleas/Cases Favorably Resolved** are estimated by the Antitrust Division based upon investigative information and credible public sources. The volume of commerce serves as a proxy for the potential effect of possibly anticompetitive behavior. This indicator has been revised to reflect only those HSR and Non-HSR merger cases in which the Division's efforts led to a reduction in anticompetitive behavior. This indicator includes the Dollar Volume of U.S. Commerce Affected in Instances where we have counted an HSR, Non-HSR and bank merger wins. While we have used existing data sources in the Division to compile the Dollar Volume of U.S. Commerce Affected in Relevant Markets for All Merger Wins, we acknowledge some limitations in our data that result in the cumulative underestimate of the value presented here. In the HSR merger and bank merger areas, we are required to review a significant number of applications, many of which are determined to pose no competitive issues. No Preliminary Inquiry is opened in these cases, but Division resources are still employed to ensure that the transactions being proposed will do no harm to the competitive environment.

In estimating the Dollar Volume of U.S. Commerce Affected in a civil non-merger case, staffs estimate an aggregate volume of commerce for each relevant domestic market affected by the anticompetitive practice or agreement. Obviously, many anticompetitive practices or agreements are more extensive, sometimes far more extensive, than are formally charged; hence we believe that the Dollar Volume of U.S. Commerce Affected is an underestimate of the actual value.

#### Outcome:

It is difficult to fully or precisely capture in a single number, or even a variety of numbers, the ultimate outcome of our Enforcement Strategy. It is not always clear just how far-reaching the effects of a particular conspiracy are; it is not always possible to determine the magnitude of the price increase that relates directly to a particular conspiracy; we cannot consistently translate into numbers the competitive impact of a given conspiracy; nor can we gauge the deterrent effects of our enforcement efforts; though we and those who have written on the subject believe that such effects exist and are strong. Nonetheless, we believe that an end outcome, if not the ultimate outcome, of our work in this area is the Savings to U.S. Consumers that arise from our successful elimination and deterrence of criminal conspiracies, the protection of competition in the U.S. economy, and our deterrence of anticompetitive behavior.

**Criminal:** There are two components to our estimate of consumer savings, the price effect of the conspiracy and the annual volume of commerce affected by the conspiracy. Volume of commerce is estimated based on the best available information from investigative and public sources. This results in an underestimate of consumer savings, as the vast majority of conspiracies exist for well over a year. We are more limited in our ability to estimate price effect, and thus in most cases rely on the 10 percent figure in the U.S. Sentencing Guidelines Manual (November 1, 1997, Section 2R1.1; Application Note 3, page 227) as the "average gain from price-fixing" (used in determining fines for convicted organizations) for our estimate in price fixing, bid rigging, and other criminal antitrust conspiracies. Although there are significant limitations to this estimate (as with any estimate), we believe it goes a long way toward describing the outcome of our work and ties directly to our vision of an environment in which U.S. consumers receive goods and services of the highest quality at the lowest price and sound economics-based antitrust enforcement principles are applied.



Civil: Our estimates of consumer savings derive initially from our best measurement of volume of commerce in the relevant markets with which we were concerned. For the majority of merger matters, we calculated consumer savings by also using a formula that makes a realistic assumption about the oligopolistic interaction among rival firms and incorporates estimates of pre-merger market shares and of market demand elasticity. In a few merger wins, primarily vertical mergers and those in which the anticompetitive effects included predicted reductions in innovation or other special considerations, it would not have been appropriate to apply that formula. For those wins, we developed conservative estimates of consumer benefits drawing on the details learned in the investigation. We note that the volume of commerce component of the calculation is estimated based on the best available information from investigative and public sources, and it is annualized and confined to U.S. commerce. Given the roughness of our methodology, we believe our consumer savings figure to be a conservative estimate in that it attempts to measure direct consumer benefits. That is, we have not attempted to value the deterrent effects (where our challenge to or expression of concern about a specific proposed or actual transaction prevents future, similarly-objectable transactions in other markets and industries) of our successful enforcement efforts. While these effects in most matters are very large, we are unable to approach measuring them. Although there clearly are significant limitations to this estimate (as with any estimate), we believe it goes a long way toward describing the outcome of our work and ties directly to our Vision of an environment in which U.S. consumers receive goods and services of the highest quality at the lowest price and sound economics-based antitrust enforcement principles are applied. The end outcome of our work in the Civil Non-Merger Enforcement Strategy is the Savings to U.S. Consumers that arise from our successful elimination and deterrence of anticompetitive behavior. There are two components to our estimate of consumer savings: the volume of commerce affected by the anticompetitive behavior and the price effect of the behavior. Volume of commerce is estimated based on the best available information from investigative and public sources, and it is annualized and confined to U.S. commerce. We are more limited in our ability to estimate price effect, and thus rely on a conservative one percent figure for our estimate. We believe our consumer savings figure to be a very conservative estimate.

The Success Rate for Criminal Matters provides an overall view of the Division's record, looking at situations where the Division determines there to be anticompetitive issues and noting our "success rate" in the outcomes for those situations. The Success Rate for Criminal Matters was calculated using the following formula: the denominator includes the sum total of the following: (1) all cases filed in the given fiscal year in which there was either a guilty plea, conviction at trial, directed verdict, dismissal of charges or other final disposition of the matter in the same fiscal year, plus (2) all cases filed in prior years in which there was either a guilty plea, conviction at trial, acquittal at trial, directed verdict, dismissal of charges or other final disposition of the matter in the given fiscal year. The numerator includes only those cases from the denominator that resulted in guilty pleas or convictions at trial, subtracting those cases that resulted in acquittals, directed verdicts, or the dismissal of charges. Cases are defined here as every individual or corporation charged by either information or indictment. Note that these statistics do not include cases that are pending, such as pending indictments of foreign nationals who remain fugitives in our international cartel prosecutions. This measure is part of a consolidated DOJ litigating component data element and actual performance is reported as a consolidated measure in the Annual Performance Report/Annual Performance Plan.

The Success Rate for Civil Matters includes:

**Number of Merger "Successes"/Challenges** provides an overall view of the Division's record, looking at situations where the Division determines there to be anticompetitive issues and noting our "success rate" in the outcomes for those situations. A success in this context may be any one of the positive outcomes that includes the Number of Mergers Abandoned Due to Division Actions Before Compulsory Process Initiated, Number of Mergers Abandoned Due to Division Actions After Compulsory Process Initiated Without Case Filed, Number of Mergers "Fixed First" without Case Filed, Number of Mergers Cases Filed with Consent Decree, Number of Merger Cases Filed but Resolved Prior to Conclusion of Trial, and Number of Merger Cases Litigated Successfully to Judgment with No Pending Appeals. This measure is part of a consolidated DOJ litigating component data element and actual performance is reported as a consolidated measure in the Annual Performance Report/Annual Performance Plan.

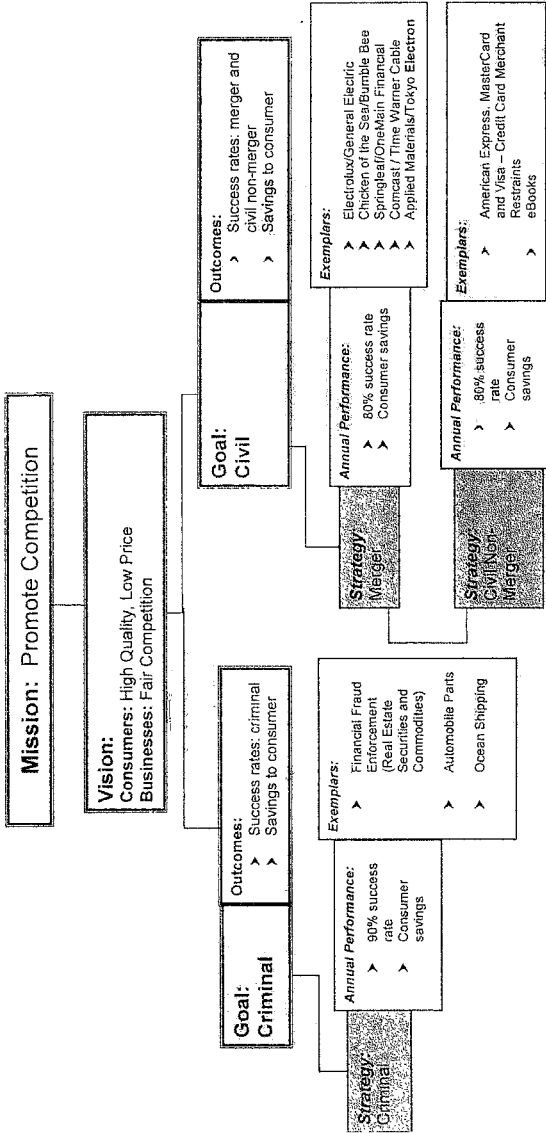
**Matters Challenged Where the Division Expressed Concern** include those in which a complaint has been filed; the subject or target of an investigation has been informed that the Assistant Attorney General (AAG) has authorized the filing of a complaint, the subject or target of an investigation has been informed that the staff is recommending that a complaint be filed, and the subject or target changes its practices in a way that causes the matter to be closed before the AAG makes a decision whether to file a complaint, or the subject or target of an investigation has been informed that the staff has serious concerns about the practice, and the subject or target changes its practices in a way that causes the matter to be closed before the staff makes a recommendation to file a complaint. This measure is part of a consolidated DOJ litigating component data element and actual performance is reported as a consolidated measure in the Annual Performance Report/Annual Performance Plan.



Performance Measure Report - Historical Data															
Decision Unit: Antitrust															
Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
		Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target
Performance Measure: Criminal	Number of Active Grand Juries	141	87	75	72	75	75	72	75	88	75	75	75	75	75
Performance Measure: Criminal	Dollar Volume of U.S. Commerce Affected in Relevant Markets Where Pleas/Cases Favorably Resolved (\$ in millions)	\$2,486.4	\$4,469	\$2,296	\$2,931					\$178,004	Not Projected	Not Projected	Not Projected	Not Projected	Not Projected
Performance Measure: Civil Merger	Number of Preliminary Inquiries Opened	90	74	64	61	64	61	61	70	87	70	70	70	70	70
Performance Measure: Civil Non-Merger	Number of Active Investigations	50	46	38	34	38	34	34	70	37	70	70	70	70	70
Performance Measure: Civil (Merger and Non-Merger)	Dollar Volume of U.S. Commerce Affected in Relevant Markets for all Merger Wins and All Non-Merger Pleas/Cases Favorably Resolved (\$ in millions)	\$125,069	\$437,410	\$46,457	\$39,395				Not Projected	\$216,598	Not Projected	Not Projected	Not Projected	Not Projected	Not Projected
Outcome Measure: Consumer Savings - Criminal	Criminal - Total Dollar Value of Savings to U.S. Consumers (\$ in millions)	\$248.6	\$447	\$230	\$293				Not Projected	\$107	Not Projected	Not Projected	Not Projected	Not Projected	Not Projected
Outcome Measure: Consumer Savings - Civil	Civil (Merger and Non-Merger) - Total Dollar Value of Savings to U.S. Consumers (\$ in millions)	\$1431.1	\$8,965.6	\$909	\$3,378				Not Projected	\$3,387	Not Projected	Not Projected	Not Projected	Not Projected	Not Projected
Outcome Measure: Success Rate - Criminal	Criminal - Percentage of cases favorably resolved	97%	93%	100%	93%				90%	98%	90%	90%	90%	90%	90%
Outcome Measure: Success Rate - Civil (Merger and Non-Merger)	Civil - Percentage of cases favorably resolved	98%	100%	90%	100%				80%	100%	80%	80%	80%	80%	80%



*Antitrust Division, Department of Justice*  
**Performance Measurement Framework**  
**FY 2017**





#### 4. Performance, Resources, and Strategies

The Antitrust Decision Unit contributes to the Department's Strategic Goal II: "Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law" Within this Goal, the Decision Unit's resources specifically address Strategic Objective 2.6: "Protect the federal fisc and defend the interests of the United States"

##### a. Performance Plan and Report for Outcomes

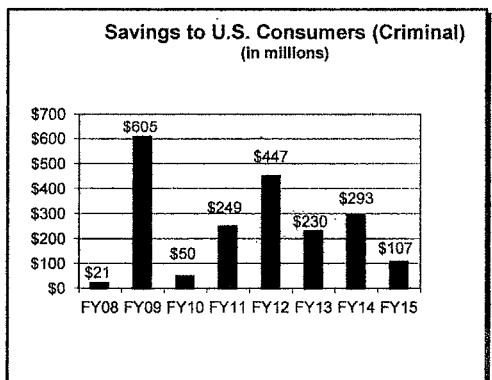
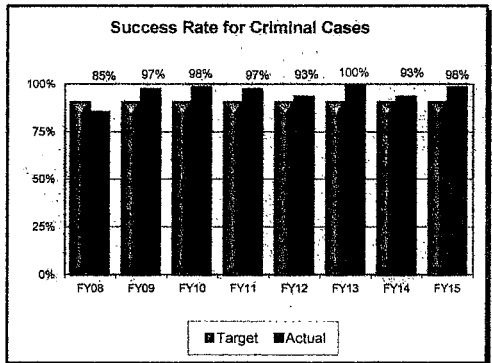
##### Prosecute International Price Fixing Cartels

The charts below illustrate the Criminal Outcome Performance Measures for the Antitrust Decision Unit, to include: Success Rate for Antitrust Criminal Cases and Savings to U.S. Consumers (as a result of the Antitrust Division's criminal enforcement efforts). It is the Division's goal to achieve a successful outcome in every case it tries. The Antitrust Division has been aggressive in its pursuit of criminal anticompetitive behavior.

In the criminal enforcement area, the Division continues to provide economic benefits to U.S. consumers and businesses in the form of lower prices and enhanced product selection by dismantling international private cartels and restricting other criminal anticompetitive activity.

In FY 2015, the Division successfully resolved 98 percent of criminal matters. This measure is a consolidated measure shared with all other litigating components within the Department. As a whole, the Department exceeded its target by successfully resolving 97 percent of its cases. The Division expects to meet or exceed its goals for FY 2016 and FY 2017.

The estimated value of consumer savings generated by the Division's criminal efforts is contingent upon the size and scope of the matters resolved each year and thus varies significantly.





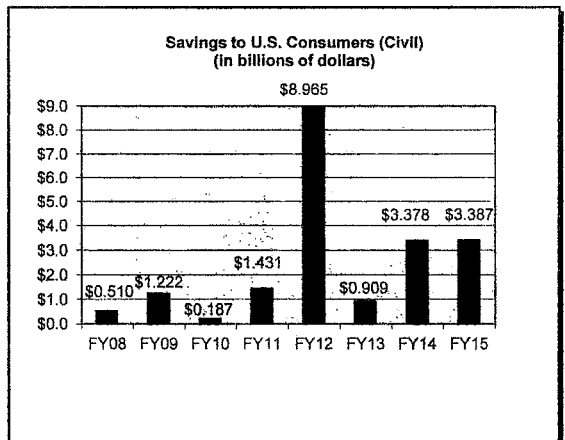
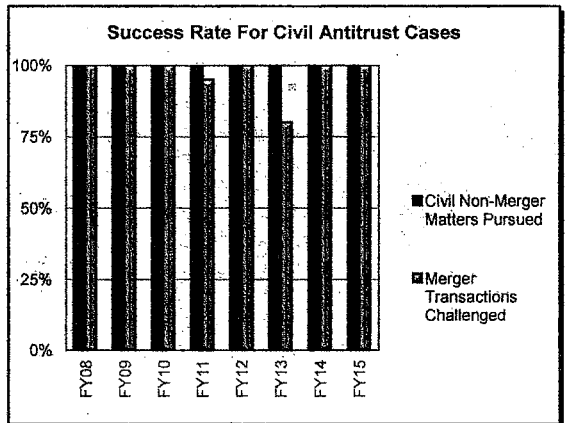
## Civil Enforcement

The charts below illustrate the Civil Outcome Performance Measures for the Antitrust Decision Unit, to include: Success Rate for Civil Antitrust Cases and Savings to U.S. Consumers (as a result of the Antitrust Division's Civil enforcement efforts).

The success rate for civil non-merger matters includes investigations in which business practices were changed after the investigation was initiated, a case was filed with consent decree, or a case was filed and litigated successfully. The Division's success in preventing anticompetitive behavior in the civil non-merger area has been notable. The Division successfully resolved every matter it challenged in FY 2015 and expects to meet or exceed its goals for FY 2016 and FY 2017.

The success rate for merger transactions challenged includes mergers that are abandoned, fixed before a complaint is filed, filed as cases with consent decrees, filed as cases but settled prior to litigation, or filed and litigated successfully. Many times, merger matters involve complex anticompetitive behavior and large, multinational corporations and require significant resources to review. The Division's Civil Merger Program successfully resolved 100 percent of the matters it challenged in FY 2015 and expects to meet or exceed its goals for FY 2016 and FY 2017.

The estimated value of consumer savings generated by the Division's civil enforcement efforts in any given year depends upon the size and scope of the matters proposed and resolved and thus varies considerably. Targeted levels of performance are not projected for this indicator.







#### **b. Strategies to Accomplish Outcomes**

##### **Prosecute International Price Fixing Cartels**

Utilizing geographically dispersed regional offices and two sections in Washington, DC, the Antitrust Division deters private cartel behavior by investigating and challenging violations of Section 1 of the Sherman Act, including such *per se* (in and of themselves, clearly illegal) violations as price fixing, bid rigging, and horizontal customer and territorial allocations. Wide ranges of investigatory techniques are used to detect collusion and bid rigging, including joint investigations with the FBI and grand jury investigations. When businesses are found actively to be engaged in bid rigging, price fixing, and other market allocation schemes that negatively affect U.S. consumers and businesses (no matter where the illegal activity may be taking place), the Division pursues criminal investigations and prosecutions.

The global reach of modern cartels and their significant effects on U.S. consumers highlights the critical importance of international advocacy and coordination efforts. Increased cooperation and assistance from foreign governments continues to enhance the Division's ability to detect and prosecute international cartel activity. In addition, the Division's Individual and Corporate Leniency Programs, revised in recent years for greater effectiveness, have proven critical in uncovering criminal antitrust violations. Greater time and resources are devoted to investigation-related travel and translation, given the increasingly international operating environment of the criminal conspiracies being encountered. In all instances, if the Division ultimately detects market collusion and successfully prosecutes, the Division may obtain criminal fines and injunctive relief.



## Civil Enforcement

The Division's Civil strategy is comprised of two key activities - Merger Review and Civil Non-Merger work. Six Washington, DC sections, and offices in Chicago, New York, and San Francisco, participate in the Division's civil work. This activity



serves to maintain the competitive structure of the national economy through investigation and litigation of instances in which monopoly power is sought, attained, or maintained through anticompetitive conduct and by seeking injunctive relief against mergers and acquisitions that may tend substantially to lessen competition.

Section 7 of the Clayton Act, as amended by the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR), requires certain enterprises that plan to merge or to enter into acquisition transactions to notify the Antitrust Division and the Federal Trade Commission (FTC) of their intention and to submit certain information. These HSR premerger notifications provide advance notice of potentially anticompetitive transactions and allow the Division to identify and block such transactions before they are consummated. HSR premerger reviews are conducted under statutorily mandated time frames. This workload is not discretionary; it results from the number of premerger filings we receive.

The number of merger transactions reviewed includes all HSR filings the Division receives and, also, reviews of proposed or consummated mergers that are below HSR filing thresholds but which present possible anti-competitive issues. HSR and non-HSR transactions may be investigated and prosecuted under Section 7 of the Clayton Act, or under Sections 1 and 2 of the Sherman Act. Referrals for non-HSR matters come from both outside the Division, via competitors or consumers, and from within the Division, based on staff knowledge of industries and information about current events.

Bank merger applications, brought to the Division's attention statutorily via the Bank Merger Act, the Bank Holding Company Act, the Home Owners Loan Act, and the Bridge Bank Section of the Federal Deposit Insurance Act, are reviewed through a somewhat different process.

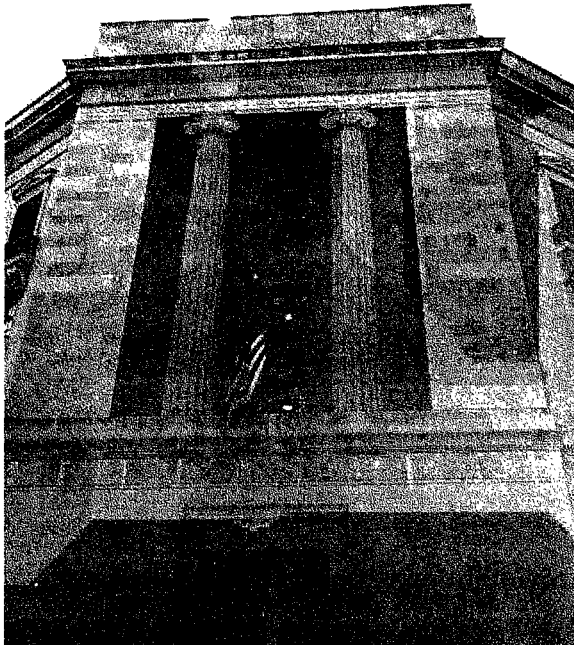
The majority of the Division's Civil Non-Merger work is performed by four litigating sections in Washington, DC, although other sections and offices provide support as necessary. Our Civil Non-Merger activities pick up, to some degree, where the Antitrust Division's Criminal strategy leaves off, pursuing matters under Section 1 of the Sherman Act in instances in which the allegedly illegal behavior falls outside bid rigging, price fixing, and market allocation schemes, the areas traditionally covered by criminal prosecutory processes. Other behavior, such as group boycotts or exclusive dealing arrangements, that constitutes a "...contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce..." is also illegal under Section 1 of the Sherman Act. It is typically prosecuted through the Division's Civil Non-Merger Enforcement Strategy.



A distinction between the Criminal and Civil Non-Merger activities is that conduct prosecuted through the Criminal strategy is considered a *per se* violation of the law, whereas conduct reviewed under the Civil Non-Merger activity may constitute a *per se* violation of the law or may be brought using a rule-of-reason analysis. *Per se* violations are violations considered so clearly anticompetitive that the Division must prove only that they occurred. Violations brought under a rule-of-reason analysis, on the other hand, are those that may or may not, depending on the factual situation, be illegal. In these instances, the Division must not only prove that the violation occurred, but must also demonstrate that the violation resulted in anticompetitive effects. In addition to pursuing matters under Section 1 of the Sherman Act, the Division's Civil Non-Merger component also prosecutes violations of Section 2 of the Sherman Act, which prohibits monopolization and attempted monopolization, and Section 3 of the Clayton Act, which prohibits tying. Tying is an agreement by a party to sell one product on the condition that the buyer also purchase a different or *tyed* product, or at least agree that he will not purchase that *tyed* product from any other supplier. Whether addressing matters under Sections 1 or 2 of the Sherman Act or Section 3 of the Clayton Act, our Civil Non-Merger enforcement activities rely upon civil compulsory process to investigate the alleged violation.

### c. Priority Goals

The Antitrust Division contributes to the FY 2016-2017 Priority Goal, "Fraud and Public Corruption." By September 30, 2017, the Department of Justice will increase the number of new investigations by 2 percent with emphasis on holding individuals accountable associated with fraud and public corruption, including white collar crime, financial fraud, and health care fraud.





## 5. Exemplars - Criminal

### A. Financial Fraud Enforcement

#### Introduction and Background

The Sherman Antitrust Act authorizes the Antitrust Division to bring criminal prosecutions against those who conspire with competitors to fix prices, rig bids, or allocate customers, territories, markets, or sales or production volumes. Enforcing the Sherman Act is a critical component of the Department's overall battle against financial fraud. Of the 60 criminal cases the Antitrust Division filed in FY 2015, many involved serious financial fraud and accounted for a significant portion of the \$3.6 billion total in criminal fines and penalties obtained. Altogether, 20 corporations and 66 individuals were charged and the courts imposed 12 prison sentences totaling 4,822 days of



incarceration. The Division brought these cases in investigations of important industries, including real estate, auto parts, and financial services, to name just a few.

Because of the importance of criminal antitrust enforcement in the fight against financial fraud, the Antitrust Division has played, and continues to play, a prominent role in the President's Financial Fraud Enforcement Task Force, Exec. Order No. 13519, 74 Fed. Reg. 60, 123 (Nov. 17, 2009). The

Division is a primary contributor to the Task Force's efforts to detect and prosecute mortgage frauds, securities and commodities frauds, and frauds targeting funds dedicated to economic recovery pursuant to the American Recovery and Reinvestment Act.

#### Mortgage and Foreclosure Fraud

In calendar-year 2011, the Antitrust Division began investigating patterns of collusion among real estate speculators. Instead of competitively bidding at public auctions held on the steps of courthouses and municipal buildings around the country, groups of speculators have conspired to keep auction prices artificially low. These schemes include speculators paying each other off to refrain from bidding, or holding unofficial "knockoff" auctions among themselves. While the country continues to face unprecedented home-foreclosure rates, this collusion is aimed at eliminating competition at foreclosure auctions. This artificially drives down foreclosed home prices, enriching the colluding speculators at the expense of homeowners, municipalities and lending institutions. These collusive schemes have a far-reaching negative impact, because they affect home prices in neighborhoods where the foreclosed properties are located. Similar collusive conduct has also been detected among bidders at auctions for public tax liens.





To combat this anticompetitive epidemic, the Antitrust Division, in conjunction with the FBI, developed a Real Estate Foreclosure Initiative. The initiative includes outreach and training efforts designed to raise awareness within the investigative community and the public about bid rigging and fraud at real estate-foreclosure and tax-lien auctions. The initiative includes information sharing and coordinated enforcement efforts with our law-enforcement partners to facilitate identifying, investigating, and prosecuting bid-rigging and collusive conduct at public auctions.

To date, as a result of the Division's efforts, 109 defendants have pleaded guilty to real estate-foreclosure and tax-liens conspiracies across the United States that suppress and restrain competition to the detriment of communities and already-financially distressed homeowners. Additionally, three individuals were convicted after trial and another 20 defendants have been indicted and are awaiting trial. The Division coordinates its initiative through the Mortgage Fraud Working Group of the Financial Fraud Enforcement Task Force.

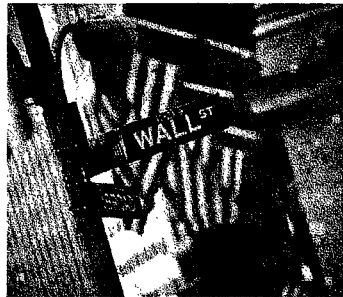
### **Securities and Commodities Fraud**

The Antitrust Division is integral to the Department's ongoing efforts to combat securities, commodities, and investment frauds. These so-called "Wall Street" frauds have plagued the nation's markets, businesses and consumers, and continue to act as a drag on the nation's ability to sustain a full economic recovery.

Of particular note are the Financial Fraud Enforcement Task Force's prosecutions involving manipulation of benchmark interest rates, which undermined financial markets worldwide and directly affected the rates referenced by financial products held by and on behalf of companies and investors around the world.

#### *LIBOR (London Interbank Offered Rate)*

One of these benchmark interest rates, LIBOR, serves as the primary benchmark for short-term interest rates globally and is used as a reference for many interest-rate contracts, mortgages, credit cards, student loans and other consumer lending products. Pursued jointly with the Criminal Division, the Antitrust Division's investigation of LIBOR manipulation has resulted in deferred prosecution agreements with four banks (the Royal Bank of Scotland, Rabobank, Lloyds Banking Group and Deutsche Bank AG), charges filed against RBS Securities Japan and DB Group Services (UK) Limited, indictments or information filed against eight former traders, six of whom have either been convicted or pleaded guilty, and criminal complaints filed against three former brokers and two former traders, all for their roles in manipulating LIBOR and related benchmark interest rates.





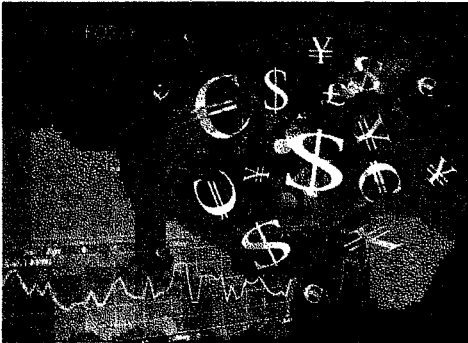
The Division has obtained **\$1.3 billion** in criminal fines and penalties in this ongoing investigation.

The broader investigation relating to LIBOR and other benchmark rates has benefited from a wide-ranging cooperative effort among various enforcement agencies both in the United States and abroad. The FBI, SEC, the Commodity Futures Trading Commission, the U.K. Financial Conduct Authority and Serious Fraud Office, the Japanese Ministry of Justice, the Japan Financial Services Agency, the Swiss Financial Market Supervisory Authority, the Dutch Public Prosecution Service, and the Dutch Central Bank have played a major role in the LIBOR investigation. The total of global criminal and regulatory fines, penalties and disgorgement obtained by authorities is over \$8 billion.

### *Foreign Exchange Rates*

In 2015, four major banks pleaded guilty to felony antitrust charges as a result of the Division's investigation of collusion in the foreign-currency exchange spot market.

Altogether, the banks—Citicorp, JPMorgan Chase & Co., Barclays PLC, and The Royal



Bank of Scotland plc—paid criminal fines totaling more than \$2.5 billion. A fifth bank, UBS AG, pleaded guilty to manipulating the LIBOR and other benchmark interest rates and paid a \$203 million as a criminal penalty for breaching its December 2012 non-prosecution agreement in the LIBOR investigation. Working together with the Criminal Division and other regulators and enforcers in the United States and abroad, the Antitrust Division investigated and prosecuted a

conspiracy affecting currencies at the heart of international commerce and undermining the integrity and competitiveness of foreign currency exchange markets that account for hundreds of billions of dollars worth of transactions every day. The five parent-level pleas were a testament to the Department's commitment to vigorously prosecute all those who manipulate the economic system to their own advantage at the expense of the public and investors.

In addition to the criminal penalties levied against the banks, civil enforcement authorities also imposed substantial penalties. The Office of the Comptroller of the Currency fined Bank of America, Citigroup, and JP Morgan Chase **a total of \$950 million** in November 2014. The Commodity Futures Trading Commission and the United Kingdom's Financial Conduct Authority imposed penalties totaling over **\$1.4 billion and \$1.7 billion**, respectively, on five banks. These included Citibank, HSBC, JPMorgan Chase, Royal Bank of Scotland and UBS. The Division continues to play a leading role in investigating the global manipulation of foreign exchange rates.

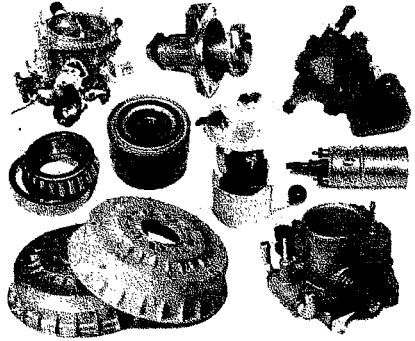


## **B. Automobile Parts Investigation**

### **Introduction**

The Antitrust Division continues to prosecute the illegal business practices of major automobile parts suppliers in an investigation spanning three continents and involving the Federal Bureau of Investigation, the European Union, Canada's Competition Bureau, the Japanese Fair Trade Commission, and the Korean Fair Trade Commission. The investigation quickly went beyond its initial focus on conspiracies involving sales of wire harnesses used in auto bodies and related products, and has continued to steadily expand as the Division investigates and prosecutes conspiracies involving other parts and additional suppliers. The collusion in the auto-parts industry impacted American automobile manufacturing companies and many foreign producers.

The automobile parts investigation is the **largest criminal investigation the Antitrust Division has ever pursued**, both in terms of its scope and the potential volume of commerce affected by the alleged illegal conduct. The ongoing cartel investigation of price-fixing and bid-rigging in the automobile parts industry has yielded **charges against 38 companies and 58 individuals and over \$2.6 billion in criminal fines** in the investigation thus far. Twenty-nine foreign-national executives charged have submitted to U.S. jurisdictions and agreed to serve prison sentences in the United States — two of whom agreed to serve two years in prison—the **longest prison terms** imposed on foreign nationals voluntarily submitting to U.S. jurisdiction for an antitrust violation.



### **Background and Investigation**

The Division's investigation initially examined only "wire harnesses"—the distribution system of cables and connectors that carry electronic information throughout an automobile. Since then, the investigation expanded to include alternators, starters, air flow meters, valve timing control devices, fuel injection components, ignition coils, electronic throttle bodies, motor generators, instrument panel clusters, electronic control units, heater control panels, various sensors, seatbelts, airbags, hoses, steering wheels, and more component parts of automobiles.

The Antitrust Division continues to investigate whether the auto parts companies that provide component parts to vehicle manufacturers such as Chrysler, Ford, General Motors, Honda and Toyota, participated in illegal anti-competitive cartel conduct, with some suspected activity dating as far back as 2000. Specific charges to date include conspiring to allocate markets, fix prices, and rig bids.



Many conspirators that have pleaded guilty carried out their conspiracies by agreeing during meetings and conversations to allocate the supply of an automobile product on a model-by-model basis and to coordinate price adjustments requested by automobile manufacturers in the United States and elsewhere. They sold the auto parts to manufacturers at non-competitive, rigged and fixed prices, and monitored the prices to make sure those involved in the conspiracies adhered to the agreed upon bid-rigging and price-fixing schemes.

## Results

Corporate fines in excess of \$50 million and the associated jail sentences for corporate executives in the auto parts investigation since the beginning of FY 2011 include:

Yazaki Corporation	<ul style="list-style-type: none"> <li>• <b>\$470 million—the second largest criminal fine ever for an antitrust violation</b></li> <li>• Wire harnesses and related products, instrument panel clusters, fuel senders</li> <li>• 6 executives ranging from 14 months to 2 years</li> </ul>
Bridgestone Corporation	<ul style="list-style-type: none"> <li>• \$425 million</li> <li>• Anti-vibration rubber parts</li> <li>• 1 executive, 18 months</li> </ul>
Furukawa Electric Company Ltd.	<ul style="list-style-type: none"> <li>• \$200 million</li> <li>• Wire harnesses and related products</li> <li>• 3 executives ranging from one year and one day to 18 months</li> </ul>
Hitachi Automotive Systems, Ltd.	<ul style="list-style-type: none"> <li>• \$195 million</li> <li>• Starter motors, alternators, and other products</li> <li>• 1 executive, 15 months</li> </ul>
Mitsubishi Electric Corporation	<ul style="list-style-type: none"> <li>• \$190 million</li> <li>• Starter motors, alternators, ignition coils</li> </ul>
Mitsuba Corporation	<ul style="list-style-type: none"> <li>• \$135 million</li> <li>• Windshield wiper systems and other products</li> <li>• 1 executive, 13 months</li> </ul>
Toyo Tire & Rubber Co., Ltd.	<ul style="list-style-type: none"> <li>• \$120 million</li> <li>• Anti-vibration rubber and constant-velocity-joint boots</li> <li>• 1 executive, one year and one day</li> </ul>
Jtekt Corporation	<ul style="list-style-type: none"> <li>• \$103 million</li> <li>• Bearings, steering assemblies</li> </ul>
DENSO Corporation	<ul style="list-style-type: none"> <li>• \$78 million</li> <li>• Electronic control units and heater control panels</li> <li>• 6 executives ranging from one year and one day to 16 months</li> </ul>



Takata Corporation	<ul style="list-style-type: none"> <li>• \$71.3 million</li> <li>• Seatbelts</li> <li>• 4 executives ranging from 14 months to 19 months</li> </ul>
NSK Ltd.	<ul style="list-style-type: none"> <li>• \$68.2 million</li> <li>• Bearings</li> </ul>
Kayaba Industry Co., Ltd. d/b/a KYB Corporation	<ul style="list-style-type: none"> <li>• \$62 million</li> <li>• Shock absorbers</li> </ul>
Robert Bosch GmbH	<ul style="list-style-type: none"> <li>• \$57.8 million</li> <li>• Spark plugs, standard oxygen sensors, and starter motors</li> </ul>
Koito Manufacturing Co., Ltd.	<ul style="list-style-type: none"> <li>• \$56.6 million</li> <li>• Automotive lighting fixtures and high intensity discharge ballasts</li> </ul>
NGK Spark Plug Co., Ltd.	<ul style="list-style-type: none"> <li>• \$52 million</li> <li>• Spark plugs, oxygen and air fuel ratio sensors</li> </ul>

## Conclusion

The illegal activity of these and other conspirators had a significant impact on automotive manufacturers in the United States. Some of the conspiracies went on for at least a decade. The conduct also potentially affected commerce on a global scale in other markets where automobiles are manufactured and/or sold.

Criminal antitrust enforcement remains a top priority of the Antitrust Division. The automobile parts investigation is continuing, and the Division anticipates additional fines and prison sentences. The importance of rooting out this type of illegal criminal conduct cannot be overstated. It negatively impacts the United States economy and results in higher prices for consumers and businesses.

## C. Ocean Shipping Investigation

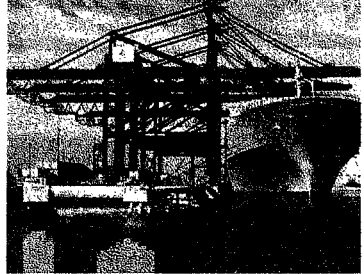
### Background and Investigation

The Antitrust Division quickly and successfully investigated a conspiracy in the deep-sea freight transportation industry. This conspiracy involved sales of international shipping services for roll-on, roll-off cargo—non-containerized cargo that can be rolled onto and off of an ocean-going vessel. Examples include new and used cars and trucks, and construction and agricultural equipment. The conspiring companies agreed on prices, allocated customers, and agreed to refrain from bidding against one another, and to exchange customer pricing information. The conspirators then charged fees in accordance with their agreements for international ocean-shipping services for certain roll-on, roll-off cargo to and from the United States and elsewhere at collusive and non-competitive prices.



## Results

Prosecutions to date have held three shipping companies responsible for their participation in the conspiracy. Their criminal sentences after guilty pleas collectively amounted to \$136 million. Four executives from the companies pled guilty and were sentenced to terms of imprisonment ranging from 14 to 18 months. Additionally, three individuals were indicted. The Antitrust Division conducted this investigation with the FBI's Baltimore Field Office, along with assistance from the U.S. Customs and Border Protection Office of Internal Affairs, Washington Field Office/Special Investigations Unit.

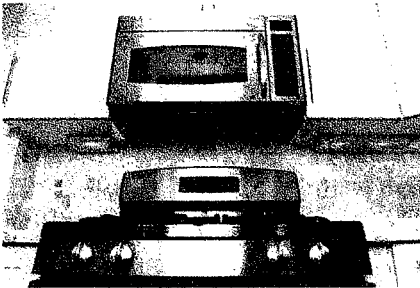


## 6. Exemplars – Civil

### A. Merger

#### Electrolux/General Electric

Major cooking appliances (ranges, cooktops, and wall ovens) are an essential part of the American household and among consumers' most significant purchases. In 2014, purchasers in the United States spent over \$4 billion on major cooking appliances. In the United States, only a handful of producers supply major cooking appliances. And only three producers have the full line of cooking appliances, variety of choices and models for each appliance, and the large sophisticated distribution network necessary to meet the needs of American homebuilders, property managers, and other contract-channel appliance purchasers.



In September 2014, Electrolux announced an agreement to acquire General Electric's appliance business for \$3.3 billion. This transaction would have combined two of the leading manufacturers of major cooking appliances. Indeed, together with Whirlpool, Electrolux and GE possess a combined share of more than 90 percent of sales of each major cooking appliance sold in the contract channel.

The Division conducted a thorough investigation, and determined that the transaction would eliminate strong head-to-head competition between Electrolux and GE, and would create a duopoly in the sale of major cooking appliances to builders and other commercial purchasers.

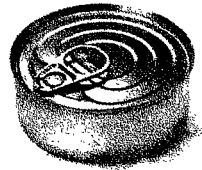


On July 1, 2015, the Division filed a complaint in the US District Court for the District of Columbia to prevent the companies from merging and to preserve their competition. Trial commenced on November 9, 2015, and after trial was nearly over, the parties announced the termination of their deal on December 7, 2015.

### **Chicken of the Sea/Bumble Bee**

In 2013, millions of U.S. consumers purchased over \$1.7 billion in shelf-stable tuna products, much of which is canned tuna, a staple of the American diet. There are only three major suppliers of branded shelf-stable tuna products to U.S. consumers—StarKist, Bumble Bee, and Chicken of the Sea. These companies make almost 80% of shelf-stable tuna sales in the United States, and the rest of the industry's sales come from various retailers' private label products that provide little competitive constraint on the three powerful brands.

On December 18, 2014, Thai Union, the owner of Chicken of the Sea, entered into a purchase agreement to purchase Bumble Bee from its owner, Lion Capital LLP, potentially combining the second- and third-largest suppliers of canned tuna in the United States into a new market-leading firm.



The Division's investigation determined that further consolidation in the industry would harm competition and consumers, the purchasers of shelf-stable tuna.

On December 3, 2015, after the Division expressed its concerns, Chicken of the Sea and Bumble Bee abandoned their merger. The parties' abandonment of this transaction preserves three major independent brands in this market.

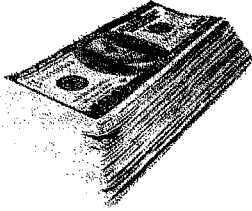
### **Springleaf/OneMain Financial**

Personal installment loans to subprime borrowers are fixed-rate, fixed-term, and fully amortized loan products that are marketed to consumers who have limited access to credit from traditional banking institutions. Personal installment loans provide a critical lifeline for borrowers with limited credit options, allowing them to pay for unexpected expenses or to consolidate debts.

On March 3, 2015, Springleaf Holdings announced that it had agreed to acquire OneMain Financial for approximately \$4.25 billion. Springleaf and OneMain are the two largest providers of personal installment loans to subprime borrowers in the United States. Springleaf's branch network included more than 800 locations in 26 states, and OneMain operated 1,110 branches in 43 states. They specialize in the same products (large installment loans, typically ranging from \$3,000 to \$6,000), target the same customer base, and have a large degree of geographic overlap between their branch networks.



The Division's investigation determined that subprime borrowers seeking personal installment loans would face fewer choices for these important loan products in local markets located in Arizona, California, Colorado, Idaho, North Carolina, Ohio,



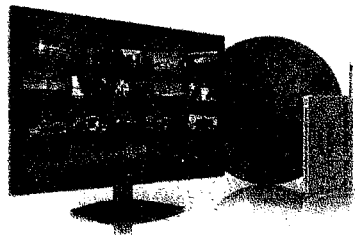
Pennsylvania, Texas, Virginia, Washington, and West Virginia. In 126 towns and municipalities in those states, Springleaf and OneMain operate branches in close proximity to one another and face few, if any, competitors. The loss of head-to-head competition between Springleaf and OneMain would result in a reduction of consumer choice that would likely drive subprime borrowers to more expensive forms of credit or leave with no reasonable alternative.

On November 13, 2015, the Division, along with the offices of seven state attorneys general, filed a civil antitrust lawsuit in the US District Court for the District of Columbia to block the proposed transaction. At the same time, the Division filed a proposed settlement that would resolve the competitive concerns. The settlement required Springleaf and OneMain to divest 127 branches with over \$500 million in loan receivables to Lendmark Financial Services or to an alternative buyer approved by the United States. Divestiture to Lendmark will create a new competitor in many of the affected states and will enhance its competitive presence in others. Taken together, the divestitures will remedy the loss of competition alleged in the Division's complaint.

#### **Comcast / Time Warner Cable**

Broadband connectivity is transforming the way Americans receive video content and delivering a wide array of new products and services. Among them are "over-the-top" video services such as Netflix and Hulu that provide innovative new ways to access video programming using the broadband services that cable companies frequently provide. These new services offer exciting new choices for consumers, but threaten to disrupt the traditional cable business model.

In February 2014, Comcast Corporation, the nation's largest video and wired broadband Internet-access provider, and Time Warner Cable Inc., the fourth-largest video and third-largest wired broadband Internet-access provider, agreed to merge in a \$45.2 billion transaction that would drastically expand Comcast's nationwide video and broadband service footprint to approximately 30 million American homes.





In close cooperation with the Federal Communications Commission, the Division carefully examined the proposed merger and its effects on competition and innovation. The investigation left the Division with significant concerns that Comcast's acquisition of Time Warner would make the new Comcast an unavoidable gatekeeper for Internet-based services that rely on a broadband connection to reach consumers. Specifically, with a far larger share of the nation's broadband customers – including close to 60 percent of all high-speed broadband subscribers – Comcast would have an increased ability to block the adoption of innovative products and services, including the “over-the-top” video services that compete with Comcast's traditional cable business.

In April 2015, after the Division informed Comcast and Time Warner of its concerns, the companies announced that they were abandoning their proposed merger. The transaction's abandonment is a victory for providers of video content and streaming services and for the millions of consumers who are benefiting from the innovative new products and services enabled by broadband connectivity.

### Applied Materials / Tokyo Electron

Semiconductors help power the smart phones, tablets, computers, and other consumer electronics that millions of Americans rely on every day. In September 2013, two of the world's largest makers of semiconductor manufacturing equipment – Applied Materials, Inc. and Tokyo Electron Ltd. – announced a \$10 billion merger that would combine the American manufacturer with its Japanese rival. The transaction would join the two leading firms that possessed the necessary know-how, resources, and ability to develop



and supply high-volume non-lithography semiconductor manufacturing equipment.

The Division conducted an extensive investigation of the proposed merger, cooperating with the Korean Fair Trade Commission, China's Ministry of Commerce, Germany's Federal Cartel Office, and competition agencies from several other jurisdictions. The investigation left the Division with substantial concerns about the transaction's competitive effects, particularly with respect to the development of equipment for next-generation semiconductors. The Division was not convinced that a remedy proposed by the merging parties to address these concerns - would sufficiently replace the competition lost through the merger.

In April 2015, after the Division informed Applied Materials and Tokyo Electron that their proposed remedy was inadequate, the companies announced that they were abandoning the merger. The transaction's abandonment preserves competition and future innovation in an industry that is vitally important to the American economy.



## **B. Non-Merger:**

### **Court Victories in American Express and Apple e-Books Litigation**

The Division continues to vigorously police anticompetitive activity outside the merger context, initiating civil enforcement actions in numerous industries to protect consumers and the competitive process. Over the last year, the Division won court victories in two of its most significant recent enforcement actions: its litigation against American Express to end the company's "anti-steering" rules with merchants and its challenge to Apple's unlawful conspiracy with five major book publishers to inflate the prices of e-books.

### **District Court Rules that American Express's Anti-Steering Rules Are Unlawful**



American consumers purchase more than \$2.3 trillion in goods and services annually using credit cards. Credit cards are accepted by millions of merchants, who pay a card acceptance fee – or “swipe fee” – to the credit card network each time a credit card is used to make a purchase. Credit card acceptance fees cost merchants over \$50 billion annually and are largely passed on to consumers through higher prices.

In October 2010, the Antitrust Division, joined by several states, filed a civil antitrust lawsuit against American Express, MasterCard, and Visa in the U.S. District Court for the Eastern District of New York alleging that the companies had violated Section 1 of the Sherman Act by including contractual restraints in their agreements with merchants that prohibited the merchants from steering consumers towards lower cost payment methods such as credit or charge cards with lower swipe fees. At the time of the lawsuit, MasterCard and Visa agreed to a settlement, later approved by the court, that terminated the companies' anticompetitive practices.

American Express chose to litigate and the case proceeded to trial in the summer of 2014. In February 2015, the district court ruled that American Express's contractual restraints, which prohibited roughly 3.4 million merchants from steering consumers towards less expensive payment methods, violated the antitrust laws. In a 150-page opinion, the court held that American Express's restraints had directly harmed competition by “sever[ing] the essential link between the price and sales of network services by denying merchants the opportunity to influence their customers' payment decisions and thereby shift spending to less expensive cards.” The court also found that interbrand price competition had been “frustrated to the point of near irrelevance” and noted that the absence of steering “largely insulated [card networks] from the downward pricing pressure ordinarily present in competitive markets.”

In May 2015, the district court entered an order enjoining American Express's anticompetitive practices, although American Express has appealed the court's ruling.



## Appeals Court Sustains Apple e-Books Ruling

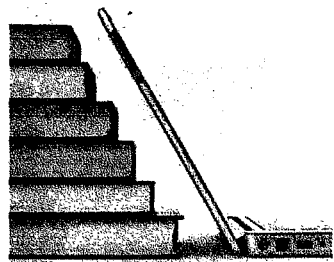
The emergence of “e-books” has brought revolutionary change to the business of publishing and selling books and delivered a variety of benefits to consumers. E-books offer 24-hour access to a product with near-instant delivery, easier portability and storage, and are considerably easier to produce and distribute than physical “print” books.

In April 2012, the Antitrust Division filed a civil antitrust lawsuit in the U.S. District Court for the Southern District of New York against Apple and five of the six major U.S. trade book publishers – Hachette Book Group (USA), HarperCollins Publishers L.L.C., Holtzbrinck Publishers LLC (d/b/a Macmillan), Penguin Group (USA) Inc., and Simon & Schuster Inc. The Division’s lawsuit, which was consolidated with similar challenges brought by 33 states and territories, alleged that Apple and the five publishers had unlawfully conspired to end e-book retailers’ freedom to compete on price, took control of pricing from e-book retailers, and substantially increased the prices that consumers paid for e-books.

The Division reached settlements with three of the publishers at the time of the lawsuit and settled with the two remaining publishers during discovery. The publisher settlements, which were approved by the court, restored e-book retailers’ ability to compete on price, resulting in markedly lower e-book prices to consumers.

Apple proceeded to trial, and in July 2013, the district court issued an opinion finding that the Division had demonstrated through “compelling direct and circumstantial evidence” that Apple and the publishers had unlawfully conspired to eliminate competition. The district court entered a final judgment enjoining Apple from reestablishing the unlawful e-book distribution agreements with the publishers and from entering into similar agreements. The judgment also required Apple to adopt a rigorous antitrust compliance program and imposed an external compliance monitor to evaluate Apple’s antitrust compliance and training programs.

Apple appealed the district court’s liability finding and certain provisions of the injunction. In June 2015, the Second Circuit affirmed the district court’s rulings, concluding that the district court’s liability determination was “amply supported and well-reasoned” and that the injunction was “lawful and consistent with preventing future competitive harms.” In addition to sustaining the district court’s injunction, in the absence of any further appeals, the Second Circuit’s decision clears the way for Apple to pay \$450 million to consumers as part of a settlement reached with the states in their related lawsuit.





## V. Program Increases by Item

Item Name:	<b><u>Enhanced Antitrust Merger Enforcement and Cartel Prosecution</u></b>
Strategic Goal:	<b><u>Strategic Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law</u></b>
Strategic Objective:	<b><u>Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States</u></b>
Budget Decision Unit(s):	<b><u>Antitrust</u></b>
Organizational Program:	<b><u>Antitrust Division Civil Merger Enforcement and Criminal Enforcement Programs</u></b>
<b>Program Increase: Positions <u>152</u> Atty <u>98</u> FTE <u>77</u> Dollars <u>\$15,000,000</u></b>	

### Description of Item

As the Nation's economy continues its recovery, the Antitrust Division takes seriously its ongoing mission of protecting the American consumer by promoting economic competition through enforcement of antitrust laws. Along with the ongoing recovery has come significant additional workload for the Division in both its civil merger enforcement and criminal cartel enforcement programs.

To meet the challenges presented by this increased activity and to continue protecting American consumers from anticompetitive merger deals and domestic and international cartels that harm U.S. consumers and businesses, the Division requests \$15.0 million to provide funding for 152 positions including 98 attorneys, 49 paralegals, and 5 economists.

### Justification

**Merger Enforcement** -- The current economic recovery has resulted in what many economic and legal experts have called a wave of mega-deals. The Division's workload statistics support this assessment. The number of mergers reviewed by the Division per year has increased substantially and so has the size and complexity of these deals. For example, between FY 2010 and FY 2015, the number of mergers the Division reviewed annually increased by more than 50%, from 1,166 in FY 2010 to 1,761 in FY 2015. Over the same time frame, the number of mergers per year valued greater than \$1 billion more than doubled, from 128 to 280. Nonetheless, the Division has fought hard to stop anticompetitive transactions that threatened to raise prices on key products and services for millions of hardworking Americans. These efforts maintain and promote competition in industries ranging from cable television and broadband (Comcast-Time Warner), cell phone service (AT&T-T-Mobile and T-Mobile-Sprint), and cooking appliances (Electrolux-General Electric), to common foods (Chicken-of-the-Sea-Bumble Bee) and airline travel (USAir-American Airlines).



Merger reviews are complicated because they involve numerous product and service markets as well as complex remedies that need thorough vetting. In investigating these deals, the Division must devote considerable time and resources assessing their potential competitive effects, a process that requires close coordination with federal agencies, state regulators, and foreign antitrust enforcers who may have certain industry expertise and/or may be conducting parallel investigations. If the Division deems a merger anticompetitive, it must seek an injunction from the federal courts. These proceedings are costly, resource intensive, and lengthy. They require a substantial commitment of lawyers, economists, and paralegals.

For example, the Division is presently reviewing two large mergers that would fundamentally transform the U.S. health insurance industry by reducing the number of large national health insurers from 5 to 3. These mergers potentially would affect the cost and availability of health services to Americans who obtain insurance through their employers, the individual exchanges under the Affordable Care Act, and/or the Medicare Advantage program. The Division is also currently reviewing a large proposed merger in the oil industry that would combine two of the three largest oilfield service providers in the world and, as a result, potentially increase the costs for domestic oil producers who are striving to put this country on the path toward energy independence.

Experts predict that this “merger wave” will continue throughout FY 2016 and 2017, adding to the Division’s already significant workload. For example, there have been recent announcements of proposed complex mergers involving beer, agricultural seeds and chemicals, and railroads.

**Cartel Prosecution** -- Modern cartel investigations are complex, resource intensive, and time consuming. Many investigations focus on conspirators who operate in foreign countries and target U.S. consumers and businesses, like in the auto parts and liquid-crystal display (LCD) conspiracies. Investigating conspiracies like these requires the Division to obtain and translate millions of documents and to work closely with enforcers throughout the world. Investigations involving the financial industry can be especially complicated, involving conduct in the United States and elsewhere and analysis of thousands of highly complex transactions between countless counter-parties.

Over the last 7 years, the Division has continued to vigorously prosecute domestic and international cartels. Since January 2009, the Division has charged 417 individuals and 143 companies, resulting in more than \$8.5 billion in criminal antitrust fines and, where imprisonment was imposed, an average sentence of about 24 months. (The criminal fines collected by the Division go to the DOJ’s Crime Victim’s Fund, which aids victims of crime with support and services.) The Division has brought charges against some of the largest banks in the world in the foreign exchange and LIBOR investigations, broken up decades-long conspiracies among ocean freight companies, auto parts suppliers, and LCD panel manufacturers, and stopped widespread bid-rigging and fraud at mortgage foreclosure auctions in Northern California and the southeastern United States. During this time, the Division has worked to strengthen cartel enforcement in other countries, leading to the extradition of foreign nationals who violated U.S. antitrust laws.



Cartel enforcement work is expected to continue to increase in FY 2016 and 2017. Investigations into collusive behavior among major international banks and their employees are ongoing. In a continuing investigation, the Division recently announced charges against a company that manufactures electrolytic capacitors (a component used in just about every product that has a battery or plug) and the Division continues to investigate price-fixing that emerges in new or unusual industries, like recent prosecutions against online retailers and heir-location service firms (companies that identify people who may be entitled to an inheritance from the estate of a relative who died without a will).

#### Impact on Performance

This enhancement supports the Department's FY 2014-2018 Strategic Plan, Strategic Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law, and Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States.

The Performance Measures for Strategic Objective 2.6 are to favorably resolve 90 percent of criminal cases and to favorably resolve 80 percent of civil cases. This proposed enhancement will aid the Department in reaching these goals in FY 2017.

In conjunction with our partners across the Department, the Division's mission and this program enhancement specifically, supports a priority goal to combat fraud and public corruption. Within this priority goal, this enhancement addresses the following two areas: 1) Criminal and Civil Litigation: Pursue criminal and civil litigation to protect the federal fisc and hold accountable those entities and individuals who commit fraud, and 2) Consumer Protection: Promote transparency in markets by preserving competition and protecting consumers and investors.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
830	380	638	\$162,246	830	380	694	\$164,977	830	380	694	\$165,506

Personnel Increase Cost Summary

Type of Position/Series	Full-year Modular Cost per Position (\$000)	1 <sup>st</sup> Year Annualization (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	2 <sup>nd</sup> Year Annualization (\$000)	2 <sup>nd</sup> Year FY 2018 Net Annualization (change from 2017) (\$000)
Economists (0110)	\$181	\$105	5	\$523	\$76	\$379
Attorneys (0905)	\$209	\$119	98	\$11,655	\$92	\$9,031
Paralegals (0950)	\$91	\$58	49	\$2,822	\$24	\$1,180
<b>Total Personnel</b>	<b>\$481</b>	<b>\$282</b>	<b>152</b>	<b>\$15,000</b>	<b>\$192</b>	<b>\$10,590</b>

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	830	380	694	\$165,506	\$0	\$165,506	\$0
Increases	152	98	77	\$15,000	\$0	\$15,000	\$10,590
<b>Grand Total</b>	<b>982</b>	<b>478</b>	<b>771</b>	<b>\$180,506</b>	<b>\$0</b>	<b>\$180,506</b>	<b>\$10,590</b>



A. Organizational Chart

ANTITRUST DIVISION

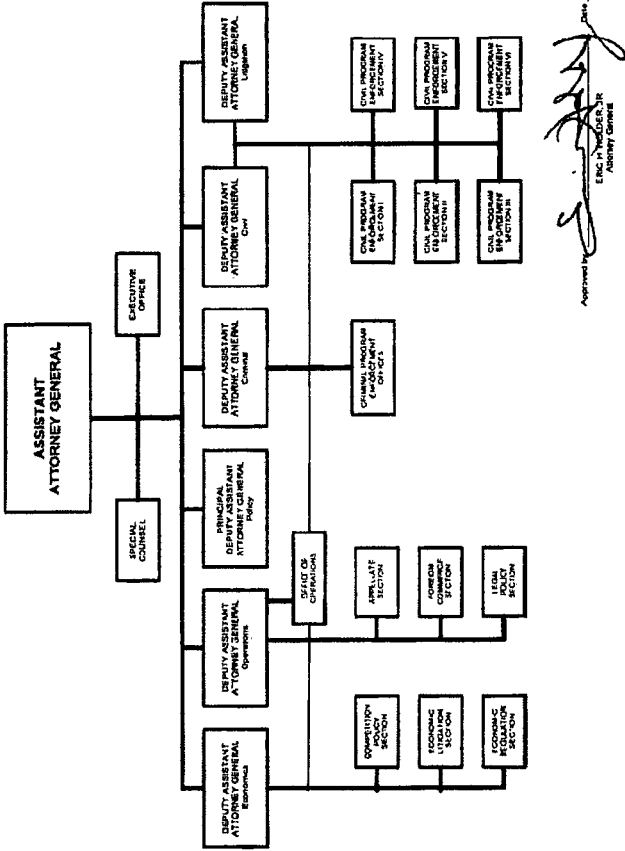


Exhibit A - Organizational Chart



B. Summary of Requirements

**Summary of Requirements**

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>			
2015 Balance Rescission	[830]	664	162,246
Total 2015 Enacted with Rescissions 1/	0	0	-6,000
<b>2016 Enacted</b>			
	[830]	664	156,246
	[830]	694	164,977
<b>Base Adjustments</b>			
Pay and Benefits	0	0	846
Domestic Rent and Facilities	0	0	-317
<b>Total Base Adjustments</b>	0	0	529
<b>Total Technical and Base Adjustments</b>	0	0	529
<b>2017 Current Services</b>			
<b>Program Changes</b>	[830]	694	165,506
Increases:			
Enhanced Antitrust Merger Enforcement and Cartel Prosecution			
Subtotal, Increases	[152]	77	15,000
<b>Total Program Changes</b>	[152]	77	15,000
<b>2017 Total Request</b>	[152]	77	15,000
<b>2016 - 2017 Total Change</b>	[982]	771	180,506
	[152]	77	15,529

1/ FY 2015 FTE is actual



**Summary of Requirements**  
Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Antitrust Division	[830]	654	162,246	[830]	694	164,977	0	0	529	[830]	694	165,506
Total Direct	[830]	654	162,246	[830]	694	164,977	0	0	529	[830]	694	165,506
Balance Rescission			-6,000			0			0			0
Total Direct with Rescission			156,246			164,977			529			165,506
Reimbursable FTE		0			0				0		0	
Total Direct and Reimb. FTE		654			694				0		694	
Other FTE:												
LEAP		0			0				0		0	
Overtime		0			0				0		0	
Grand Total, FTE		654			694				0		694	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Antitrust Division	[152]	77	15,000	0	0	0	[982]	771	180,506
Total Direct	[152]	77	15,000	0	0	0	[982]	771	180,506
Balance Rescission			0			0			0
Total Direct with Rescission			15,000			0			180,506
Reimbursable FTE		0			0			0	
Total Direct and Reimb. FTE		77			0			771	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		77			0			771	



FY 2017 Program Increases/Offsets by Decision Unit

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Antitrust Division			Total Increases		
		Direct Pos.	Agt./Atty.	Est. FTE	Direct Pos.	Agt./Atty.	Est. FTE
Enhanced Antitrust Merger Enforcement and Cartel Prosecution		[152]	[98]	77	[152]	[98]	77
Total Program Increases		[152]	[98]	77	[152]	[98]	77
Program Offsets	Location of Description by Program Activity	Antitrust Division			Total Offsets		
		Direct Pos.	Agt./Atty.	Est. FTE	Direct Pos.	Agt./Atty.	Est. FTE
No Program Offsets							
Total Program Offsets							



Resources by Department of Justice Strategic Goal and Objective

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount	
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law																		
2.6 Protect the federal fisc and defend the interests of the United States																		
Subtotal, Goal 2	664	182,246		694	164,977		894	165,506		77	15,000		0	0		771	180,506	
TOTAL	654	162,246		694	164,977		894	165,506		77	15,000		0	0		771	180,506	



### Justifications for Technical and Base Adjustments

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>			
1 <u>2017 Pay Raise – 1.6%</u> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested, \$1,127,000 represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$857,000 for pay and \$270,000 for benefits).	0	0	1,127
2 <u>Annualization of 2016 Pay Raise</u> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's budget. The amount requested \$309,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$235,000 for pay and \$74,000 for benefits).	0	0	309
3 <u>Changes in Compensable Days</u> The decreased cost for two compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$78,122,000 and applicable benefits \$16,676,000 by 260 compensable days is -\$724,000.	0	0	-724
4 <u>Employees Compensation Fund</u> The -\$3,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	-3
5 <u>Health Insurance</u> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 1.9 percent. Applied against the 2016 estimate of \$4,396,000, the additional amount required is \$86,000.	0	0	86
6 <u>Retirement</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$61,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	51
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>846</b>



**Justifications for Technical and Base Adjustments**  
Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
1 <u>GSA Rent</u> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested decrease of \$360,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	-360
2 <u>Guard Service</u> This includes Department of Homeland Security (DHS) Federal Protective Service charges. Justice Protective Service charges and other security services across the country. The requested increase of \$43,000 is required to meet these commitments.	0	0	43
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	-317
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	529



## Crosswalk of 2015 Availability

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover		Recoveries/Refunds		FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount	
Antitrust Division	[830]	654	162,246	0	0	-55	16,360	1,203		[830]	654	179,754	
<b>Total Direct</b>	<b>[830]</b>	<b>654</b>	<b>162,246</b>	<b>0</b>	<b>0</b>	<b>-55</b>	<b>16,360</b>	<b>1,203</b>		<b>[830]</b>	<b>654</b>	<b>179,754</b>	
Balance Rescission			-6,000			0	0	0				-6,000	
Total Direct with Rescission			156,246			-55	16,360	1,203				173,754	
Reimbursable FTE		0			0						0		
Total Direct and Reimb. FTE		654			0						654		
Other FTE:													
LEAP FTE		0			0						0		
Overtime		0			0						0		
Grand Total FTE		654			0						654		

### Reprogramming/Transfers:

The Division transferred \$55 to the DOJ Justice Information Sharing Technology (JIST) account.

### Carryover:

The Division brought forward \$16,360 from prior years' salaries and expenses funding. The FY 2015 Appropriation rescinded \$6,000 from the Division's unobligated balance total.

### Recoveries/Refunds:

As of September 30, 2015, ATR recoveries total \$1,203, of which \$0 was made available in FY 2015.



**Crosswalk of 2016 Availability**  
 Antitrust Division  
 Salaries and Expenses  
 (Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Antitrust Division	(830)	694	164,977	0	0	0	13,892	0	(830)	694	178,869
<b>Total Direct</b>	<b>(830)</b>	<b>694</b>	<b>164,977</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13,892</b>	<b>0</b>	<b>(830)</b>	<b>694</b>	<b>178,869</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			164,977			0	13,892	0			178,869
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		694			0					694	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>694</b>			<b>0</b>					<b>694</b>	

**Reprogramming/Transfers:****Carryover:**

The Division brought forward \$13,892 from prior years' salaries and expenses funding.

**Recoveries/Refunds:**



**Summary of Reimbursable Resources**  
Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Department of Justice (Justice Management Division)	0	0	4,379	0	0	1,500	0	0	0	0	0	-1,500
Environment and Natural Resource Division	0	0	126	0	0	150	0	0	150	0	0	0
Federal Trade Commission	0	0	17	0	0	0	0	0	0	0	0	0
Office of Attorney Recruitment/Management	0	0	13	0	0	0	0	0	0	0	0	0
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>4,535</b>	<b>0</b>	<b>0</b>	<b>1,650</b>	<b>0</b>	<b>0</b>	<b>150</b>	<b>0</b>	<b>0</b>	<b>-1,500</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Antitrust Division	0	0	4,535	0	0	1,650	0	0	150	0	0	-1,500
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>4,535</b>	<b>0</b>	<b>0</b>	<b>1,650</b>	<b>0</b>	<b>0</b>	<b>150</b>	<b>0</b>	<b>0</b>	<b>-1,500</b>



**Crosswalk of 2016 Availability**  
 Antitrust Division  
 Salaries and Expenses  
 (Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Antitrust Division	[830]	694	164,977	0	0	0	13,892	0	[830]	694	178,869
<b>Total Direct</b>	<b>[830]</b>	<b>694</b>	<b>164,977</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13,892</b>	<b>0</b>	<b>[830]</b>	<b>694</b>	<b>178,869</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			164,977			0	13,892	0			178,869
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		694			0					694	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>694</b>			<b>0</b>					<b>694</b>	

**Reprogramming/Transfers:****Carryover:**

The Division brought forward \$13,892 from prior years' salaries and expenses funding.

**Recoveries/Refunds:**



Summary of Reimbursable Resources

Antitrust Division  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	Amount
Department of Justice (Justice Management Division)	0	0	4,379	0	0	1,500	0	0	0	0	-1,500
Environment and Natural Resource Division	0	0	126	0	0	150	0	0	150	0	0
Federal Trade Commission	0	0	17	0	0	0	0	0	0	0	0
Office of Attorney Recruitment/Management	0	0	13	0	0	0	0	0	0	0	0
Budgetary Resources	0	0	4,535	0	0	1,650	0	0	150	0	-1,500

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	FTE	Amount	Reimb. Pos.	Amount
Antitrust Division	0	0	4,535	0	0	1,650	0	0	150	0	-1,500
Budgetary Resources	0	0	4,535	0	0	1,650	0	0	150	0	-1,500



**K. Summary of Requirements by Object Class**  
**Summary of Requirements by Object Class**  
 Antitrust Division  
 Salaries and Expenses  
 (Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	654	61,268	694	69,147	771	76,885	77	7,738
11.3 - Other than full-time permanent	0	12,157	0	14,000	0	14,108	0	108
11.5 - Other personnel compensation	0	831	0	1,000	0	1,000	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	252	0	300	0	297	0	-3
<b>Total</b>	<b>654</b>	<b>74,508</b>	<b>694</b>	<b>84,447</b>	<b>771</b>	<b>92,290</b>	<b>77</b>	<b>7,843</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		21,772		24,500		26,872		2,372
13.0 - Benefits for former personnel		88		100		100		0
21.0 - Travel and transportation of persons		1,746		1,800		2,123		323
22.0 - Transportation of things		312		300		350		50
23.1 - Rental payments to GSA		21,421		21,742		21,382		-360
23.2 - Rental payments to others		254		200		243		43
23.3 - Communications, utilities, and miscellaneous charges		1,581		1,600		1,765		165
24.0 - Printing and reproduction		79		80		109		29
25.1 - Advisory and assistance services		418		400		400		0
25.2 - Other services from non-federal sources		23,156		37,000		24,320		-12,680
25.3 - Other goods and services from federal sources		2,438		2,500		2,932		432
25.4 - Operation and maintenance of facilities		300		300		300		0
25.6 - Medical care		93		100		117		17
25.7 - Operation and maintenance of equipment		752		800		800		0
26.0 - Supplies and materials		1,147		1,200		1,149		-51
31.0 - Equipment		9,787		1,800		3,358		1,558
32.0 - Land and structures		0		0		1,896		1,896
<b>Total Obligations</b>		<b>159,862</b>		<b>178,869</b>		<b>180,506</b>		<b>1,637</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-16,360		-13,892		0		13,892
Transfers/Reprogramming		55		0		0		0
Recoveries/Refunds		-1,203		0		0		0
Balance Rescission		6,000		0		0		0
Unobligated End-of-Year, Available		13,892		0		0		0
Unobligated End-of-Year, Expiring		0		0		0		0
<b>Total Direct Requirements</b>		<b>162,246</b>		<b>164,977</b>		<b>180,506</b>		<b>15,529</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0		0	0

Exhibit K - Summary of Requirements by Object Class



**UNITED STATES  
DEPARTMENT OF JUSTICE**

UNITED STATES ATTORNEYS



FY 2017 PERFORMANCE BUDGET  
CONGRESSIONAL SUBMISSION



## Table of Contents

Page No.

I. Overview.....	1
II. Summary of Program Changes.....	16
III. Appropriations Language and Analysis of Appropriations Language.....	17
IV. Program Activity Justification.....	18
A. Criminal .....	18
1. Program Description.....	19
2. Performance Tables.....	21
3. Performance, Resources, and Strategies.....	23
B. Civil .....	28
1. Program Description.....	29
2. Performance Tables.....	32
3. Performance, Resources, and Strategies.....	34
C. Legal Education .....	35
1. Program Description.....	36
2. Performance Table .....	39
3. Performance, Resources, and Strategies.....	40
V. Program Increases by Item.....	42



## VII. Exhibits ..... 56

- A. Organizational Chart
- B. Summary of Requirements
- C. FY 2017 Program Increases/Offsets by Decision Unit
- D. Resources by DOI Strategic Goal / Objective
- E. Justification for Technical and Base Adjustments
- F. Crosswalk of FY 2015 Availability
- G. Crosswalk of FY 2016 Availability
- H. Summary of Reimbursable Resources
- I. Detail of Permanent Positions by Category
- J. Financial Analysis of Program Changes
- K. Summary of Requirements by Object Class
- L. Status of Congressionally Requested Studies, Reports, and Evaluations







## I. Overview of the United States Attorneys

### A. Introduction

The United States Attorneys' mission as the nation's principal litigators supports three of the Department of Justice's strategic goals – (1) to prevent terrorism and promote the nation's security consistent with the rule of law, (2) to prevent crime, protect the rights of the American people, and enforce federal law, and (3) to ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels.

In FY 2017, the United States Attorneys request \$2,074,402,000 and 10,932 positions, of which 5,542 are attorneys. The budget request includes the following program increases: \$19,634,000 and 138 positions (including 24 attorneys) to address the paradigm shift from paper discovery to electronic discovery; \$5,000,000 and 53 positions for the Smart on Crime initiative; and \$2,426,000 and 10 positions for countering violent extremism.

Electronic copies of the Department of Justice's Congressional Budget Justifications can be viewed or downloaded from the internet: <http://www.justice.gov/02organizations/bpp.htm>.

**The United States Attorneys serve as the nation's principal litigators. In response to the mandates of the Constitution that required establishment of a system of federal courts, Congress enacted the Judiciary Act of 1789, directing the President to appoint, in each federal district, "a person learned in the law to act as an attorney for the United States."**

**Since 1870, the United States Attorneys have worked under the direction of the United States Department of Justice.**

There are 94 United States Attorneys' offices (USAOs) located throughout the continental United States, Hawaii, Alaska, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. The 93 United States Attorneys (Guam and the Northern Mariana Islands are under the direction of a single United States Attorney) are appointed by, and serve at the discretion of, the President of the United States, with the advice and consent of the United States Senate. The map on page 3 depicts the current district and branch office locations of each USAO.

The United States Attorneys report to the Attorney General through the Deputy Attorney General. Each United States Attorney serves as the chief federal law enforcement officer within his or her judicial district and, as such, is responsible for the prosecution of criminal cases brought by the federal government, the litigation and defense of civil cases in which the United States is a party, and the handling of criminal and civil appellate cases before United States Courts of Appeals. The United States Attorneys and Assistant United States Attorneys (AUSAs) represent the interests of the United States in cities, towns, and communities across the country. Through their hard work and dedication, justice is served throughout the nation. The USAOs conduct most of the trial work in which the United States is a party. Although caseloads vary by districts, each USAO has a diverse docket of cases. Each United States Attorney exercises broad





discretion in the use of his or her resources to further local priorities and to serve his or her community's needs. The USAOs also play a key role in the implementation of the Department's Smart on Crime initiative, which has fundamentally changed our approach to charging and sentencing in criminal cases.

### **The Attorney General's Advisory Committee of United States Attorneys**

United States Attorneys provide advice and counsel to the Attorney General and senior policy leadership through the Attorney General's Advisory Committee (AGAC) and its various subcommittees and working groups. The AGAC was established in 1973, to give United States Attorneys a voice in advising the Attorney General on Department policies. The Committee is comprised of approximately 19 members, including 16 United States Attorneys, a Criminal Chief, a Civil Chief, and an Appellate Chief. The Committee members meet regularly with the Attorney General, the Deputy Attorney General, and the Associate Attorney General, and represent various federal judicial circuits, and offices. The AGAC has subcommittees and working groups to address the Administration's priorities.

The subcommittees include:

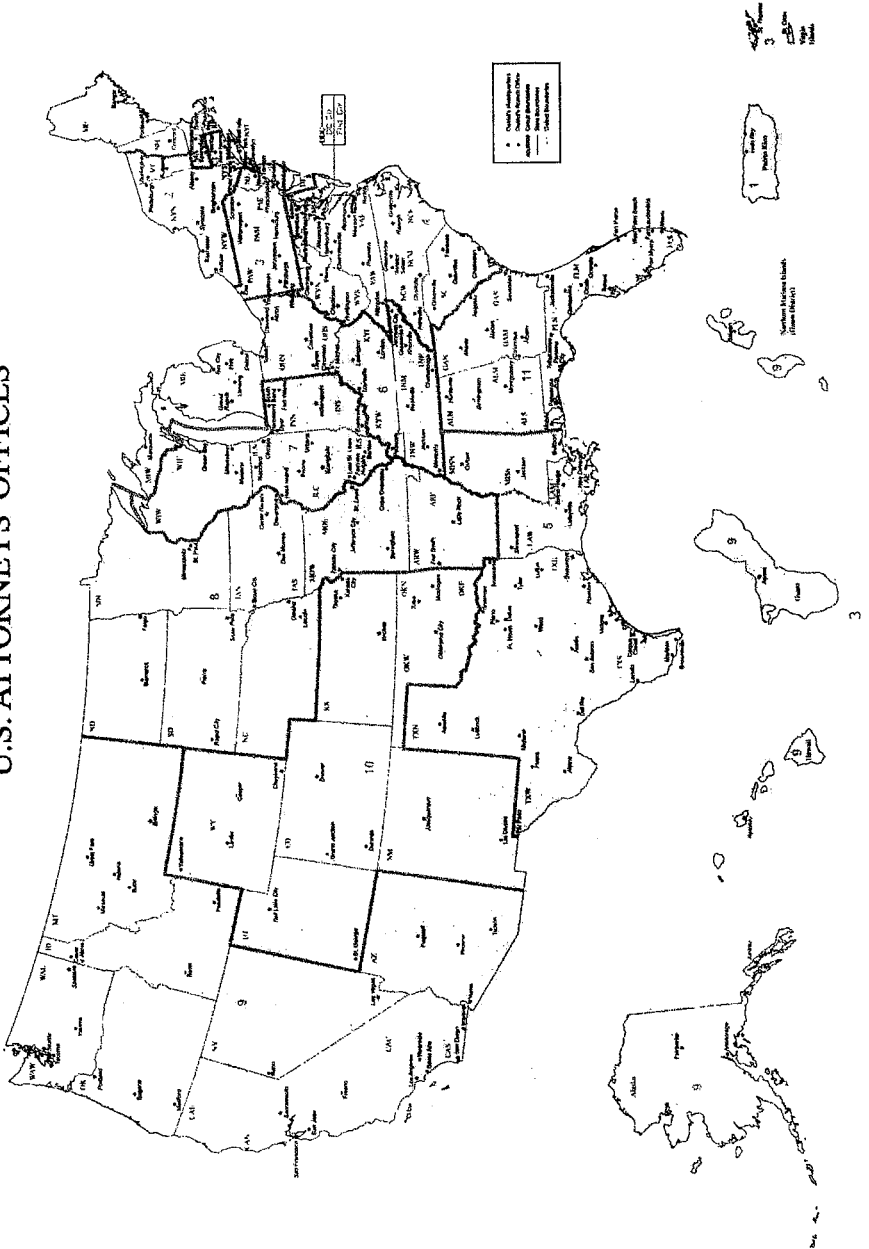
- Border and Immigration Law Enforcement
- Civil Rights
- Criminal Practice
- Cyber/Intellectual Property
- LECC/Victim/Community Issues
- Native American Issues
- Office Management and Budget
- Terrorism/National Security
- Violent and Organized Crime
- White Collar/Fraud

The working groups include:

- Administrative Officers
- Appellate Chiefs
- Child Exploitation and Obscenity
- Civil Chiefs
- Controlled Substances and Asset Forfeiture
- Criminal Chiefs
- Domestic Terrorism
- Environmental Issues
- Forensic Science
- Health Care Fraud
- Local Government Coordination
- Medical Marijuana
- Security Issues
- Service Members and Veterans Rights



# U.S. ATTORNEYS' OFFICES







### Executive Office for the United States Attorneys

In 1953, Attorney General Order No. 8-53 established the Executive Office for United States Attorneys (EOUSA) to “provide general executive assistance and supervision to the offices of the United States Attorneys.” One of the original directives instructed EOUSA to “serve as liaison, coordinator, and expeditor with respect to the Offices of the United States Attorneys, and between these offices and other elements of the Department [of Justice].” Under the guidance of the Director, EOUSA provides the 94 USAOs with general executive assistance and supervision; policy guidance; administrative management direction and oversight; operational support; and coordination with other components of the Department and other federal agencies. EOUSA’s responsibilities encompass legal, budgetary, administrative, and personnel services, as well as continuing legal education. EOUSA provides support and assistance to approximately 11,600 direct and reimbursable employees in 250 staffed offices throughout the country. See Exhibit A for an organization chart of EOUSA.

The following three program/functional areas fall under the immediate direction of the Director: **Resource Management and Planning; Information Technology; and Human Resources.** The responsibilities of these program areas are outlined below:

- The **Chief Financial Officer** provides the Director with expert advice on an annual budget of approximately \$2 billion, full-time equivalent (FTE) position allocations, resource management, and reimbursable agreements with the Department and other federal agencies. The CFO has responsibility for the following staffs: the **Resource Management and Planning (RMP) Staff**; the **Facilities and Support Services (FASS) Staff**; and the **Acquisitions Staff**. The **RMP Staff** is responsible for budget formulation, budget execution, financial management, audit reviews, and the detailee program. The **RMP Staff** compiles resource needs and formulates an annual budget submission for presentation to the Department, the Office of Management and Budget (OMB), and Congress. It also manages day-to-day financial operations through daily contact with the USAOs and through review of regular accountability reports. An internal Audit and Review Staff evaluates the internal controls in the USAOs and prepares districts for the annual independent federal financial audit. The Detailee Program Staff initiates and coordinates all detail assignments, both internal and external to our community. The Financial Systems Support Group (FSSG) provides financial systems support and expertise to the USAOs on all Departmental and EOUSA automated financial and accounting systems. RMP also develops performance measures for the United States Attorneys in accordance with the Government Performance and Results Act (GPRA) and coordinates quarterly status reporting and program assessments. The **FASS Staff** provides direct support and oversight of all USAOs in the areas of real property management, including space acquisition, relocation, design, repair, and management of rent payments. Support services include forms management, printing, and mail metering. The **Acquisitions Staff** supports both EOUSA and the USAOs by issuing contracts for supplies/services nationwide in compliance with applicable federal, departmental, and other regulations, policies, and procedures.





- The **Chief Information Officer** is responsible for providing advice and assistance to the Director of EOUSA and the senior staff to ensure that information technology is acquired and managed according to Department and EOUSA policies and procedures. The CIO directs and manages the following staffs. The **Case Management Staff** develops and maintains software applications and case management systems. The **Office Automation Staff** supports the purchase and installation of computer systems, equipment, and software; the maintenance of hardware and software; and end-user training. The **Telecommunications and Technology Development Staff** provides administrative and technical support to the USAOs in all telecommunications activities, including voice, data, and video. The **Information Security Staff** ensures the confidentiality, integrity, and availability of information and information systems to best support the mission of the United States Attorneys. The **Records Information Management Staff** coordinates and oversees electronic records and document management capabilities of all USAOs. The **Enterprise Voice-over Internet Protocol Staff** implements and maintains the next generation telephone service/system that integrates into the computer system, creating a more effective method of communication to maximize return on investment and contribute to the mission statement of the USAOs.
- The **Chief Human Resources Officer** is responsible for all aspects of human resource management, operations, policy, and practices in EOUSA and the USAOs. The **Human Resources Staff** assists EOUSA and the USAOs by providing employment services in such areas as position classification, staffing, compensation, employee benefits, performance management, pre-employment security, and employee assistance. Staff members provide guidance, advice, and training related to these programs and activities. The **Security and Emergency Management Staff** provides security program support for the USAOs, including policy and procedural assistance, training, education and awareness efforts, and emergency and contingency planning.

EOUSA also has two Deputy Directors who report to the Director. The **Deputy Director/Counsel to the Director** oversees the **Office of Legal and Victim Programs**; the **Strategic Communications Staff**; the **Data Integrity and Analysis Staff**; and the **Evaluation and Review Staff**. The functions of these units are outlined below:

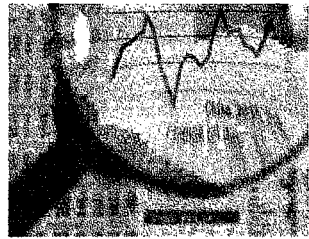
- The **Office of Legal and Victim Programs** includes four staffs: **Asset Recovery**; **White Collar and Civil Litigation**; **Victim-Witness**; and **Indian, Violent and Cyber Crimes**. Each staff assists in the development and implementation of policies and procedures in its program areas, and serves as a liaison between the USAOs and other offices both inside and outside the Department. The **Asset Recovery Staff** supports the collection and enforcement efforts of district financial litigation programs, asset forfeiture programs, and bankruptcy. The **White Collar and Civil Litigation Staff** provides guidance and support to the USAOs in the areas of health care fraud, white collar crime, and civil defensive litigation. In addition, the staff coordinates the activities of the Affirmative Civil Enforcement Program, which uses civil statutes for federal law enforcement efforts in fighting economic fraud. The **Victim-Witness Staff** provides guidance and support for personnel in the USAOs who handle victim notification, explain to victims the criminal justice process, prepare victims





and witnesses for testimony and allocation, coordinate and accompany victims and witnesses to court proceedings, and provide victims with service referrals and emergency assistance. The staff also provides guidance and support to the USAOs on both civil and criminal Civil Rights issues. The **Indian, Violent and Cyber Crimes Staff** provides guidance and support to the USAOs in the areas of Native American issues, computer crime and intellectual property, immigration and border security, violent crime and gangs, and narcotics. The staff also provides management support for the Project Safe Neighborhoods and Project Safe Childhood programs.

- The **Strategic Communications Staff (SCS)** supports EOUSA and the USAOs with external and internal communications, digital engagement, and multimedia. Working closely with the Department's Office of Public Affairs, SCS provides support on public affairs and media issues related to the USAOs. SCS also manages digital engagement at EOUSA, providing web content and social media management, development, and support for EOUSA and the USAOs, as well as multimedia services such as photography, audio/visual productions, and graphic design.
- The **Data Integrity and Analysis Staff** is responsible for providing statistical information and analysis for EOUSA. The staff provides data and analysis to EOUSA's leadership, and helps EOUSA respond to data requests from DOJ components, the White House, Congress, and the public. The staff also provides the United States Attorneys' community comprehensive quarterly analysis of work-year, caseload, and workload information, and produces the United States Attorneys' Annual Statistical Report.
- The **Evaluation and Review Staff** carries out EOUSA's responsibility under 28 C.F.R. Part 0.22 to evaluate the performance of the USAOs, to make appropriate reports, and to take corrective actions if necessary. The evaluation program enables EOUSA to fulfill this responsibility. In meeting these regulatory and statutory requirements, the evaluation program provides on-site management assistance to United States Attorneys, as well as a forum for evaluators and the office being evaluated to share information and innovative ideas. The feedback provided to EOUSA's leadership assists in addressing management issues in the USAOs and also as a vehicle for identifying and sharing best practices.







The **Deputy Director for Legal Management** oversees the following offices and staffs:

- The **Office of Legal Education (OLE)** develops, conducts, and authorizes the training of all federal legal personnel. OLE coordinates legal education and attorney training for the Department of Justice, other federal departments and agencies, as well as state and local law enforcement. OLE is a separate decision unit of the budget, and its functions and mission, which are largely completed at the National Advocacy Center (NAC) in Columbia, South Carolina, are discussed in greater detail in Section IV.C.
- The **Freedom of Information and Privacy Act (FOIA) Staff** processes all FOIA and Privacy Act requests for records located throughout EOUSA and the USAOs, provides legal guidance to the USAOs concerning FOIA/Privacy Act issues, represents them in administrative appeals, and assists AUSAs and Department of Justice attorneys in litigation in federal courts by providing draft pleadings and preparing legal documents.
- The **Equal Employment Opportunity and Diversity Management (EEO/DM) Staff**, which provides centralized leadership, coordination, and evaluation of all equal employment efforts within EOUSA and the USAOs, is comprised of three components – Complaint Processing, Affirmative Employment/Special Emphasis Programs, and training. The EEO mission supports the USAOs and EOUSA by providing timely and impartial customer service in the areas of conflict resolution; EEO complaint processing; civil rights policy development and training; language assistance plans; and diversity management assistance through training, outreach, and recruitment.
- The **General Counsel's Office (GCO)** provides advice to the USAOs and EOUSA on a broad array of legal and ethical issues, including conflicts of interest, recusals, outside activities, gifts and financial disclosures, allegations of misconduct, personnel legal issues, discovery requests, and compliance with subpoenas. The GCO is also responsible for the employee relations programs of EOUSA and the USAOs.

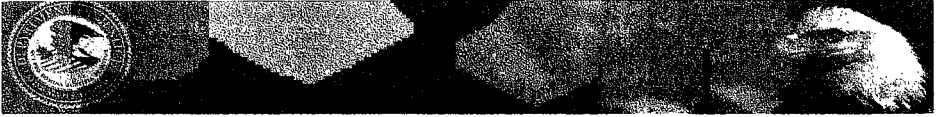


## CRIMINAL PROSECUTIONS

The USAOs investigate and prosecute the vast majority of criminal cases brought by the federal government – representing an incredibly diverse workload. The types of cases include international and domestic terrorism; immigration; child exploitation and obscenity; firearms and violent crime; identity theft; public corruption; procurement, securities, and mortgage fraud; gangs and organized crime; drug enforcement; human trafficking; and criminal civil



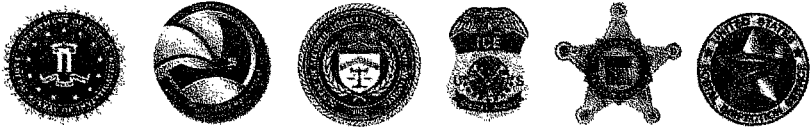




rights. Many of these cases involve multiple defendants and are extremely complex. The nature of today's crimes has required prosecutors to acquire extensive knowledge in a wide range of fields, such as banking, health care, computer technology, securities, and forensics.

The United States Attorneys receive most of their criminal referrals, or "matters," from federal investigative agencies, including the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the United States Immigration and Customs Enforcement (ICE), the United States Secret Service, and the United States Postal Inspection Service. The USAOs also receive criminal matters from state and local investigative agencies, and sometimes through reports from private citizens. Following careful consideration of each criminal matter, the United States Attorney must decide whether to present the matter to a grand jury for indictment.

#### Federal Law Enforcement Partners



Although historically a large percentage of criminal defendants have pled guilty prior to trial, a USAO must always be prepared to go to trial after the grand jury returns an indictment. Careful and diligent preparation for trial, including thorough pre-trial discovery and the litigation of pre-trial motions, helps to clarify issues, promote efficiency, and protect a defendant's rights under the Speedy Trial Act. When a defendant does not plead guilty, however, a trial before a petit jury or a judge (a bench trial) becomes necessary. If the defendant is convicted after trial, the USAO must participate in a sentencing hearing and also defend the conviction in post-trial litigation and on appeal. The USAOs handle most criminal appeals before the United States Court of Appeals. If there is a further appeal, the United States Attorney may be called upon to assist the Solicitor General in preparing the case for review by the United States Supreme Court.





## CIVIL LITIGATION

The United States Attorneys initiate civil actions, referred to as “affirmative litigation,” to assert and protect the United States’ interests. They also defend the United States’ interests in lawsuits filed against the government, referred to as defensive civil litigation. In other civil cases, the United States is a third party, creditor, or intervener, such as representing the government’s interests in bankruptcy actions.

Examples of affirmative litigation include civil actions brought to enforce the nation’s environmental, admiralty, and civil rights laws; recoup money and recover damages resulting from federal program and other fraud; enforce administrative summonses; and forfeit assets seized by federal, state, and local law enforcement.

Defensive litigation includes actions seeking monetary damages for alleged torts, contract violations, and discrimination by the United States and its agents and employees. It also includes defending suits challenging government administrative actions, including Social Security disability determinations; habeas corpus petitions; and constitutional challenges to statutes and other federal policies. The USAOs represent and defend the government in its many roles – as employer, regulator, law enforcer, medical care provider, revenue collector, contractor, procurer, property owner, judicial and correctional systems managers, and administrator of federal benefits. When the United States is sued, the Department of Justice must be its legal representative.

Civil defensive work is unique because it is non-discretionary and non-delegable. Unlike criminal matters, civil defensive cases cannot be declined to manage or reduce an office’s caseload. All cases filed against the United States, its agencies, and employees in their official capacities must be defended.

## CRIMINAL AND CIVIL APPEALS

Appeals require a thorough review of the entire record in the case, the filing of briefs, and in many, participation in oral argument before the United States Court of Appeals. In most appellate matters handled by the USAOs, the United States is the appellee and must respond to an appeal initiated by an opposing party. Accordingly, the appellate workload of the United States Attorneys fluctuates based on decisions outside their control. Furthermore, the complexity of appellate work and the time required to handle that work increases when the case presents complicated facts or novel questions of law.





## CRIMINAL AND CIVIL DEBT COLLECTION

The USAOs are responsible for collecting both criminal and civil debt for the federal government. Each USAO has a Financial Litigation Unit (FLU) responsible for criminal and civil debt collection activities as well as an Affirmative Civil Enforcement staff devoted to civil debt collection.

Debts are incurred by a criminal defendant when the defendant is sentenced by the court. These debts may be in the form of restitution to crime victims, fines imposed by the court, special assessments on each criminal conviction count, costs of prosecution and other costs, or forfeitures of appearance bonds. Interest may also be collected in certain cases. When restitution is ordered, the USAOs are involved in collecting federal restitution payments (owed to the United States) as well as non-federal restitution (owed to private individuals and entities). As a result of the Mandatory Victims Restitution Act (MVRA), courts must impose monetary restitution orders in all violent crimes and most property crimes, regardless of a defendant's ability to pay restitution. United States Attorneys are required to enforce restitution orders on behalf of all federal crime victims.

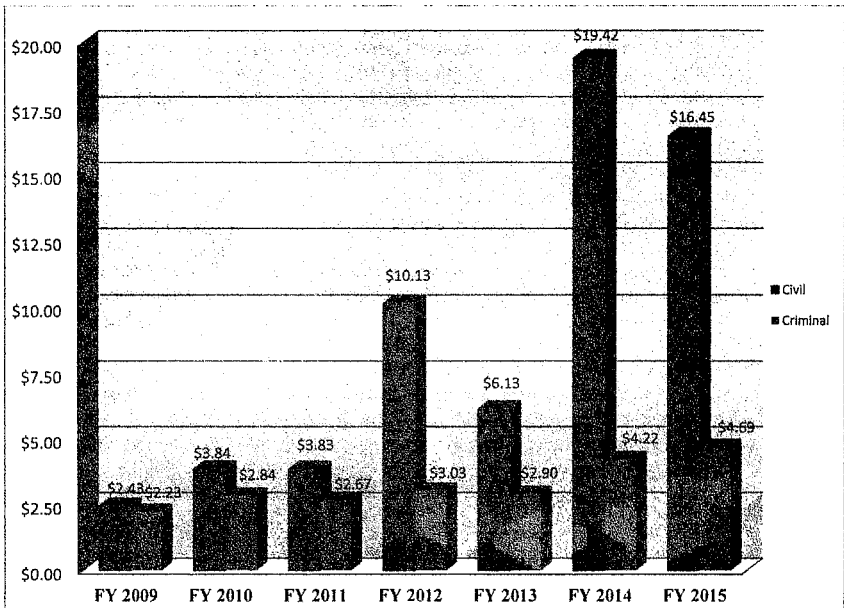
The United States Attorneys are also the legal representatives for other federal agencies to pursue repayment of debts. For example, when federal agencies lend money and the recipients default on repayment, or when federal agencies have paid on guaranteed loans that have not been repaid as provided for in the lending agreement, the United States Attorneys pursue repayment of the debt. The Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Transportation, Veterans Affairs, and the Small Business Administration are some of these client agencies. The United States Attorneys file suit to obtain judgments to collect debts, foreclose on real property, compel physicians to repay or fulfill their commitment to the Public Health Service in return for education grants, sue to set aside fraudulent transfers of property which could be used to satisfy defaulted loans, and manage debtor repayment schedules.





The table below illustrates the significant amount of debts collected each year from FY 2009 through the end of FY 2015.

**Debt Collection Chart (in billions)**



In FY 2015, the USAOs collected \$21.15 billion in criminal and civil debts. Of the total debts collected, USAOs recovered \$4.69 billion in criminal debts; and \$16.45 billion in civil debts. The United States Attorneys' FY 2015 collection efforts, handled by a very small percentage of the total workforce, returned to the Treasury nearly eleven times the \$1.96 billion appropriated in the FY 2015 budget for the entire United States Attorneys' community.

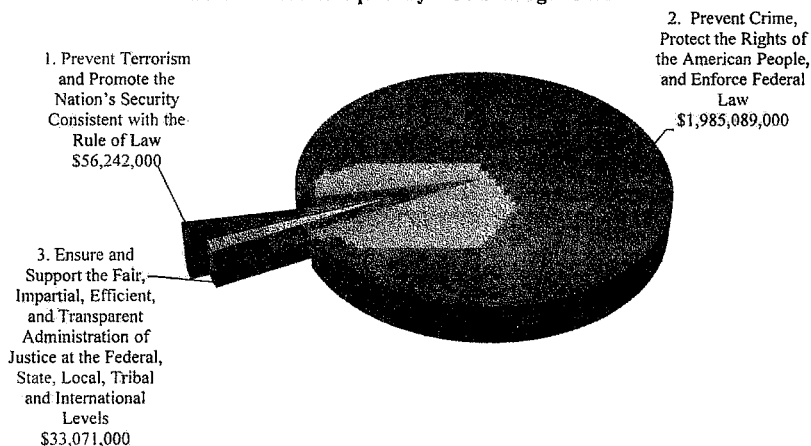




## B. Issues, Outcomes, and Strategies

The following chart and descriptions provide a brief summary of the Department's Strategic Goals and Objectives in which the United States Attorneys play a role.

**FY 2017 Total Request by DOJ Strategic Goal**



### **DOJ Strategic Goal 1: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law (\$56,242,000)**

- Prosecute those involved in terrorist acts (1.2).
- Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnership, and the investigation and prosecution of cyber threat actors (1.4).

### **DOJ Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law (\$1,985,089,000)**

- Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers (2.1).
- Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to, America's crime victims (2.2).
- Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of licit drugs (2.3).





- Investigate and prosecute corruption, economic crimes, and transnational organized crime (2.4).
- Promote and protect American civil rights by preventing and prosecuting discriminatory practices (2.5).
- Protect the federal fisc and defend the interests of the United States (2.6).

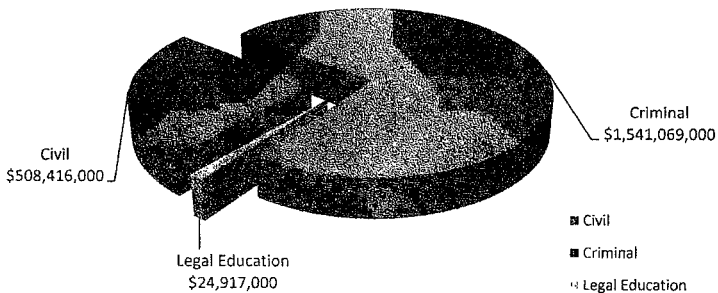
**DOJ Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels (\$33,071,000)**

- Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs (3.1).
- Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society (3.4).
- Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation (3.8).

**C. Full Program Costs**

The United States Attorneys' \$2,074,402,000 budget request for FY 2017 is divided into three decision units: criminal, civil, and legal education.

**FY 2017 Budget Request by Decision Unit**







Some programs, as well as management and administration costs, cross decision units. The performance and resource tables for each decision unit reflect the total costs of achieving the strategies that the United States Attorneys will employ in FY 2017. The various resource and performance charts incorporate the costs of lower level strategies which also contribute to the achievement of objectives, but which may not be highlighted in detail in order to provide a concise narrative. Also included are the indirect costs of continuing activities, which are central to the operations of each decision unit. This request will fund the United States Attorneys' role in supporting the Department's Strategic Plan. We will continue to provide federal leadership in preventing and controlling crime and seeking just punishment of those found guilty of unlawful conduct.

#### **D. Performance Challenges**

The United States Attorneys face both external and internal challenges that can impact their ability to meet their goals. Some of these performance challenges are summarized below.

##### **External Challenges**

Coordinating with External Partners. Law enforcement is a central element of the United States Attorneys' mission, yet the ability and willingness of other federal, state, tribal, and local law enforcement partners to coordinate and share intelligence, resources, and personnel with one another can pose significant challenges. Failure to coordinate and collaborate can impede the prosecution of complex criminal activity and even disrupt ongoing investigations. Thus, we must continually strive to enhance coordination with our law enforcement partners.

Identifying Emerging Criminal Activities. Criminal activity, especially fraud, continues to evolve in response to new technologies and law enforcement efforts. Fraud schemes, which have become more sophisticated and complex over time, can have a significant impact on individual financial stability as well as our economy. As a result, the United States Attorneys and their investigative partners are working to identify financial frauds as they emerge so law enforcement can address these crimes in a timely and comprehensive manner.

Keeping Pace with Technology. As technology has evolved, so has the amount of electronically stored information that comprises critical evidence in our investigations and cases. To keep pace with this change and to ensure that our criminal and civil cases are adequately supported, the United States Attorneys must develop an integrated approach to electronic discovery that focuses on employee skills, training, best practices, and technological tools to help identify, collect, process, review, analyze, and present electronic evidence.





### Internal Challenge

Maintaining a Skilled Workforce. To address certain external changes and challenges, such as increasing amounts of eDiscovery, the United States Attorneys need employees who can adapt to changes in the law and its practice. We must ensure that attorneys and support staff have the skills necessary to effectively represent the interests of the United States. This requires a focus on improving the competencies of existing employees through training and hiring new employees with the appropriate skill sets.

#### ***USAO Success Story - Indian Country -***

Over the last four and one-half years, United States Attorneys' offices with responsibility for Indian country prosecutions have seen their caseloads for crimes committed on tribal lands increase. This increase shows the fruits of our labor since the Department of Justice implemented the Indian Country Law Enforcement Initiative in January 2010. The districts focused on fully leveraging vital partnerships with tribal, local, and state agencies to address violent crime and victimization in tribal communities. The increase in prosecutions of Indian Country crime is the direct result of the many initiatives led by USAOs' across the country, including strategies that place federal prosecutors on the reservations on a frequent basis to enhance criminal investigations and communication.





## II. Summary of Program Changes

In FY 2017, the United States Attorneys' budget request is \$2,074,402,000, which includes the following program changes: 201 positions (including 24 attorneys); 101 FTE; and \$27,060,000 in program increases. The following program changes are outlined in the chart below:

Item Name	Description				Page
	Purpose	Pos.	FTE	Dollars (\$000)	
<b>eDiscovery</b>	These resources will address the paradigm shift from paper discovery to electronic discovery.	138	69	19,634	44
<b>Prevention and Reentry Coordinators</b>	These resources will ensure that every district has a dedicated Prevention and Reentry Coordinator to work hand-in-hand with law enforcement, the courts, and community partners.	53	27	5,000	49
<b>Countering Violent Extremism (CVE)</b>	These resources will further develop and implement the Countering Violent Extremism (CVE) initiative within ten 'USAOs that currently are or will participate in the CVE initiative.	10	5	2,426	54
<b>TOTAL</b>		201	101	27,060	





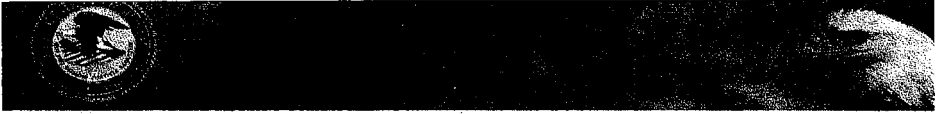
### III. Appropriations Language and Analysis of Appropriations Language

#### Appropriations Language

##### SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, including inter-governmental and cooperative agreements, [\$2,000,000,000] \$2,074,402,000: *Provided*, That of the total amount appropriated, not to exceed \$7,200 shall be available for official reception and representation expenses: *Provided further*, That not to exceed \$25,000,000 shall remain available until expended: *Provided further*, That each United States Attorney shall establish or participate in a task force on human trafficking.





#### IV. Program Activity Justification

##### A. Criminal

<b>Criminal Litigation</b>	<b>Direct Pos.</b>	<b>Estimated FTE</b>	<b>Amount</b>
2015 Enacted	8,105	7,258	1,449,270,000
2016 Enacted	8,176	7,623	1,485,996,000
Adjustments to Base and Technical Adjustments	0	27	35,951,000
2017 Current Services	8,176	7,650	1,521,947,000
2017 Program Increases	145	73	19,122,000
2017 Request	8,321	7,723	1,541,069,000
<b>Total Change 2016-2017</b>	<b>145</b>	<b>100</b>	<b>55,073,000</b>

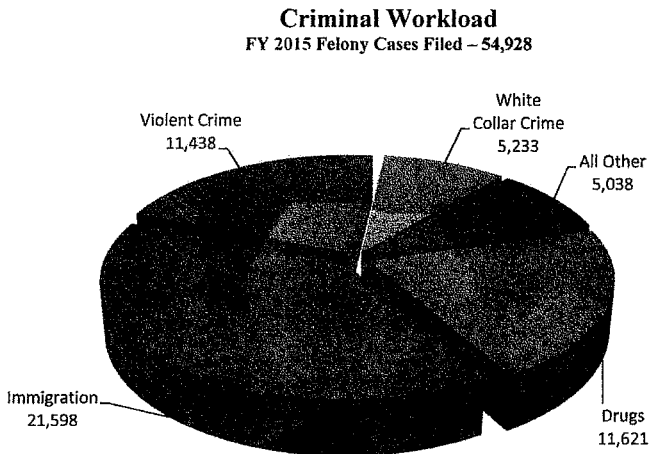
<b>Criminal Litigation Information Technology Breakout</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2015 Enacted	344	344	121,441,000
2016 Enacted	344	344	128,360,000
Adjustments to Base and Technical Adjustments	0	0	1,925,000
2017 Current Services	344	344	130,285,000
2017 Request	344	344	130,285,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>1,925,000</b>





### 1. Program Description—Criminal Program Activity

As discussed earlier, the USAOs receive criminal referrals from federal investigative agencies as well as state and local investigative agencies. After careful consideration of the applicable law and evidence in each case, a USAO must decide whether to initiate a prosecution. During FY 2015, the USAOs filed 54,928 felony criminal cases against 73,316 defendants in United States District Court. The following chart shows the types of cases filed by the USAOs.



A total of 56,138 cases against 74,990 defendants were closed during FY 2015. Of the 74,990 defendants whose cases were closed, 92.8 percent or 69,561, either pled guilty or were found guilty after a trial. Of these, 55,840 defendants received prison sentences. One hundred and three of these defendants received sentences of life imprisonment. The rate of convicted defendants who received prison sentences has been approximately 80 percent over the last five years.





### **USAO Success Story –Immigration**

The United States Attorney's Office for the Southern District of Florida successfully prosecuted a 28-person marriage and immigration fraud scheme. The case was investigated by ICE/HSI and USCIS. Between May 2011 and February 2014, organizers and lead defendants Chavez and Baez, and several recruiters also named in the indictment, arranged for United States citizens and lawful permanent residents to enter into fraudulent marriages with aliens for the purpose of evading the immigration laws of the United States. The defendants charged the aliens a fee to arrange the fraudulent marriages, notarized the fraudulent marriage licenses, completed the necessary immigration paperwork, and prepared the co-conspirators for their interviews with United States Citizenship and Immigration Services. The co-conspirators also charged the aliens a fee to enter into the fraudulent marriages. The two ring leaders were sentenced to 21 months imprisonment and had their US citizenship revoked and naturalization certificates canceled. A recruiter was sentenced to 10 months of imprisonment. The remaining defendants were sentenced to a range of time for their conduct. One defendant, a Colombian national, remains a fugitive.

### **USAO Success Story** **- Cyber Crime -**

In June 2015, in the Eastern District of New York, Qendrim Dobruna, a member of an international cybercrime syndicate, was sentenced to 50 months in federal prison, and was ordered to pay restitution in the amount of \$14 million for his role in hacking into the computer systems of U.S.-based financial institutions, stealing prepaid debit card data, and eliminating withdrawal limits. The stolen card data was then disseminated worldwide and used in making fraudulent ATM withdrawals in excess of \$14 million in a single weekend. Dobruna pled guilty to bank fraud in July 2014.



## PERFORMANCE AND RESOURCES TABLE

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Criminal												
RESOURCES												
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	Enacted		Actual		Projected		Changes		Requested (Total)	
			FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)			7,438	1,478,799	7,263	1,449,270	7,623	1,485,996	100	55,073	7,723	1,541,069
			1,136	[269,175]	1,044	[262,511]	1,262	[332,294]	18	6,095	1,280	[337,389]
			FY 2015		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
			345	51,056	345	51,056	345	51,056	0	0	345	51,055
			Terrorism/Terrorist-Related		Number of Cases - Defendants Handled		181,606		181,606		181,606	
			Total Defendants Terminated		90,461		90,461		90,461		90,461	
			Total Defendants Guilty		83,860		83,860		83,860		83,860	
			Percentage of Cases Favorably Resolved		90.00%		90.00%		90.00%		90.00%	

Data Definition, Validation, Verification, and Limitations: Data is collected from the USA 5 monthly Resource Summary Report System, which summarizes the use of personnel resources allocated to USAOs. Data is also taken from the United States Attorneys' central Case Management System, which contains district information including criminal matters, cases, and appeals. The USAOs are required to submit bi-annual case data certifications to EOUSA. The data is reviewed by knowledgeable personnel such as supervisory attorneys and legal clerks in each district. Attorneys and support personnel are responsible for ensuring that local procedures are followed for maintaining the integrity of the data in the system. Terrorism cases include hoax and financing cases, as well as the traditional domestic and international terrorism cases. Terrorism-related cases involve national security/critical infrastructure, which are prosecuted against defendants whose criminal convictions may or may not be terrorist-related, but whose conduct affects national security or exposes critical infrastructure to potential terrorist exploitation. Note that the number of terrorist convictions does not reflect the range of prosecutorial work performed by USAOs that results in disruption of terrorist activity, and other work that does not result in criminal prosecutions because of intelligence gathering and other national security considerations.



PERFORMANCE MEASURE TABLE																
Decision Unit: Criminal																
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
			Actual		Actual		Actual		Actual		Target		Target		Target	
			Performance Measure		Performance Measure		Performance Measure		Performance Measure		Actual		Actual		Actual	
1.2,2.1,2.2,2.3,2.4, 2.5,2.6,3.1, 3.4, 3.8	Number of Cases - Defendants Handled		161,202		201,412		197,001		188,272		181,606		181,606		181,606	
1.2,2.1,2.2,2.3,2.4, 2.5,2.6,3.1, 3.4, 3.8	Total Defendants Terminated		90,461		87,709		82,092		80,174		90,461		90,461		90,461	
1.2,2.1,2.2,2.3,2.4, 2.5,2.6,3.1, 3.4, 3.8	Total Defendants Guilty		83,360		80,963		75,718		74,392		83,860		83,860		83,860	
1.2,2.1,2.2,2.3,2.4, 2.5,2.6,3.1, 3.4, 3.8	OUTCOME Measure		92.7%		92.0%		92.0%		92.7%		90.0%		90.0%		90.0%	
N/A = Data unavailable																





### 3. Performance, Resources, and Strategies

The Criminal Decision Unit contributes to the following Department' Strategic Goals:

**Goal I: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law.** Within this goal, the decision unit's resources address the Department's Strategic Objective: 1.2 - Prosecute those involved in terrorist acts; and 1.4 – Combat cyber-based threat and attacks through the use of all available tools, strong public-private partnership, and the investigation and prosecution of cyber threat actors.

**Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.** Within this goal, the decision unit's resources address six of the Department's Strategic Objectives: 2.1 - Combat the threat, incidence, and prevalence of violent crime; 2.2 - Prevent, and intervene in crimes against vulnerable populations; uphold the rights of, and improve services to, America's crime victims; 2.3 – Combat the threat, trafficking, and use of illegal drugs and the diversion of licit drugs; 2.4 - Combat corruption, economic crimes, and international organized crime; 2.5 – Promote and protect Americans' civil rights; and 2.6 – Protect the federal fisc and defend the interests of the United States.

**Goal III: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels.** Within this goal, the decision unit's resources address the Department's Strategic Objectives: 3.1 - Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs; 3.4 - Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society; and 3.8 - Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.

#### a. Performance Plan and Report for Outcomes

In the criminal area, the performance measure for the United States Attorneys is the percentage of criminal cases favorably resolved.

The United States Attorneys play a vital role in the development and implementation of the strategies that support the Department's Smart on Crime initiative. Smart on Crime directs USAOs to address crime in the full context in which it occurs. This requires USAOs to focus not only on criminal prosecution, but on prevention, reentry, diversion, and community outreach and engagement of all kinds. Criminal prosecutions, of course, are and will remain the backbone of USAO activity. USAOs will continue to focus on the most serious violent offenders—the “worst of the worst”—as targets for federal prosecution. Each and every case will be evaluated on its individual merits consistent with the Department's priorities.





Successful federal investigations and prosecutions bring justice to victims and a sense of stability and security to the communities affected by crime. It is from this core work that the stature of the USAO within the community and the United States Attorney's "convening authority" flows. However, USAO prevention, reentry, and community engagement efforts, when joined with coordinated and targeted prosecutions, can be extremely effective in improving public safety, building trust in law enforcement, and reducing recidivism over the longer term.

The United States Attorneys have already begun to undertake this work as an important element of their larger public safety and community outreach mission. The United States Attorneys closely work with criminal justice and social service partners to aid inmates in their efforts to reenter society. During FY 2015, more than 88 FTE were spent on reentry and prevention efforts. As Smart on Crime policies are implemented, the number of hours spent on reentry and prevention are expected to continue to increase.

The very essence of the Smart on Crime initiative is reforming the criminal justice system in the 21st century. USAOs continue to implement new and dynamic reentry and diversion programs designed to widen the number of potential participants, lower recidivism, and improve public safety. USAOs have begun supplementing existing efforts by sponsoring seminars, outreach events, and job fairs. Their efforts have been both varied and widespread, as described below.

- The USAO in Mobile, Alabama recently organized a meeting with potential employers at the Mobile Chamber of Commerce. The event hosted many offenders seeking work. During the event, offenders were able to participate in mock interviews. Potential employers were made aware of the federal bonding program for ex-offenders, as well as a federal tax credit that may be available for employers of ex-offenders.
- In the Eastern District of Pennsylvania, the USAO hosted a meeting of key federal, state, and local leaders concerned with improving reentry and reducing recidivism in Philadelphia. That initial meeting grew into the Philadelphia Reentry Coalition, which is now comprised of over 20 organizations, including federal, state, and local law enforcement, prison, and probation officials, prosecutors, defenders, academics, and non-profit organizations.
- In the Central District of Illinois, the USAO is the key player in the Pretrial Alternatives to Detention Initiative (PADI), a ground breaking program that for years was the first of its kind. The program is designed for defendants with substance abuse issues. The USAO refers a potential candidate to the Probation Office, which in turn consults with a substance abuse provider, and together they evaluate the candidate to ensure that he or she has a legitimate substance abuse problem.

With appropriate funding, USAOs can establish more prevention and reentry programs and enhance community involvement in these efforts. Opportunities include the ability to convene key criminal justice stakeholders to address broader issues of public safety, including prevention, diversion and reentry.





Financial industry fraud has shaken the world's confidence in the United States financial system. Losses by victims in financial fraud cases have ranged from millions of dollars to billions of dollars. Mortgage fraud and foreclosure rescue scams routinely involve millions of dollars in losses and multiple defendants, including mortgage brokers, real estate agents, appraisers, closing agents, and false buyers and sellers who receive kickbacks. Efforts to combat financial and mortgage 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.

The USAOs continue to develop innovative practices to assist with the prosecution of public corruption and economic crimes. For example, the United States Attorneys have implemented e-discovery processes to move from paper evidence to electronic evidence and to manage, examine, and transfer large amounts of data. In addition, the United States Attorneys have used Palantir in sophisticated cases. Palantir is a software platform that allows for data integration from multiple source points which is critical to organizing and prosecuting complex cases. Palantir transforms the presentation of data from the traditional flat Excel spreadsheet into a more visual platform for use during investigation and trial. Currently, Palantir is being used to support healthcare fraud and securities fraud cases, and we are looking to expand this support to other types of cases such as procurement fraud.

#### **b. Strategies to Accomplish Outcomes**

In FY 2017, the United States Attorneys will continue to place a high priority on prosecution related to national security as well as address other important priorities such as reentry and prevention efforts, financial and mortgage fraud, gun safety, child exploitation, violent crime, cybercrime, and human trafficking.

The United States Attorneys will also increase the use of technology in our practice of law. Technology provides a means to increase the productivity of existing resources. As criminal cases are increasingly "electronic", providing technical training and recruiting a workforce with the skill sets needed to fully utilize the electronic tools available to the community are critical to the successful furtherance of our mission.

Other strategies include:

- Regular reviews and monitoring of case and workload data.
- Leveraging technology to improve efficiency and enhance information flow organization-wide and with our partners.
- Continue to look at operational efficiencies in order to preserve human capital which is our most valuable resource. Continue to address emerging training needs through the Office of Legal Education.





### ***USAO Success Story*** ***- Financial Fraud -***

On May 27, 2015, a 47-count indictment was unsealed in the Eastern District of New York, charging 14 defendants with racketeering, wire fraud and money laundering conspiracies, among other offenses, in connection with the defendants' participation in a 24-year scheme to enrich themselves through the corruption of international soccer. The guilty pleas of four individual defendants and two corporate defendants were also unsealed. The defendants charged in the indictment include high-ranking officials of the Fédération Internationale de Football Association (FIFA), the organization responsible for the regulation and promotion of soccer worldwide, as well as leading officials of other soccer governing bodies that operate under the FIFA umbrella. The defendants also include United States and South American sports marketing executives who are alleged to have systematically paid and agreed to pay well over \$150 million in bribes and kickbacks to obtain lucrative media and marketing rights to international soccer tournaments.

#### **c. Priority Goals**

In FYs 2016 - 2017, the United States Attorneys contribute to the Department's five priority goals:

**National Security:** Protect Americans from terrorism and other threats to National Security. By September 30, 2017, the Department of Justice will disrupt 250 terrorist threats and groups.

**Combating Cyber Threats:** Identify and pursue cyber threat actors. By September 30, 2017, the Department of Justice will disrupt and dismantle 1,000 cyber threat actors while successfully resolving 90 percent of both national security and criminal cyber cases.

**Enhancing Public Safety:** Strengthen relationships with the communities we serve, and enhance law-enforcement capabilities by constructing new foundations of trust, respect and mutual understanding. By September 30, 2017, increase by 40 percent, the number of law enforcement officers and community members engaged in technical assistance and training activities supportive of community policing to ensure police reform and, produce an informed citizenry.

**Vulnerable People:** Protect the most vulnerable among us, including victims and survivors of human trafficking. By September 30, 2017 the Department of Justice will:





- Open investigations concerning the sexual exploitation of children (5% over FY 15 target); increase the number of open investigations concerning human trafficking (5% over FY 15 target)
- Open investigations concerning non-compliant sex offenders (3% increase over baseline)
- Percent of civil rights cases that are favorably resolved – criminal and civil (85%)
- Increase the number of human trafficking leads and complaints reviewed by the Human Trafficking Prosecution Unit (5% increase over baseline)

**Fraud and Public Corruption:** Protect the American people from fraud and public corruption. By September 30, 2017, the Department of Justice will increase the number of new investigations by 2 percent with emphasis on holding individuals accountable associated with fraud and public corruption, including white collar crime, financial fraud, and health care fraud.

The United States Attorneys' progress regarding this goal is reported quarterly to the Department.

In FYs 2014 - 2015, the United States Attorneys contributed to two priority goals:

**Financial Fraud and Healthcare Fraud:** Protect the American people from financial and healthcare fraud: In order to reduce financial and healthcare fraud, by September 30, 2015, the Department will reduce by 3 percent over FY 2013 levels, the number of financial and healthcare fraud investigations pending longer than 2 years to efficiently and effectively drive those investigations to resolution.

**Status:** Over the past two years, the numbers of investigations pending longer than 24 months have trended downward due to a greater awareness of the "aging matters" by United States Attorney Offices (USAOs). Data concerning health care fraud and financial fraud matters pending for 24 months or more are now posted on each USAO's internal data page.

**Vulnerable People:** Protect vulnerable populations by increasing the number of investigations and litigation matters concerning child exploitation, human trafficking, and non-compliant sex offenders; and by improving programs to prevent victimization, identify victims, and provide services. By September 30, 2015, by working with federal, state, local, and tribal partners, the Department will protect potential victims from abuse and exploitation through one set of key indicators:

- Open litigation matters concerning sexual exploitation of children and human trafficking (5 percent increase over baseline).

**Status:** The United States Attorneys exceeded its two-year target by 7 percent.



**B. Civil**

<b>Civil Litigation</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2015 Enacted	2,479	2,221	480,584,000
2016 Enacted	2,502	2,340	489,477,000
Adjustments to Base and Technical Adjustments	0	3	11,001,000
2017 Current Services	2,502	2,343	500,478,000
2017 Program Increases	56	28	7,938,000
2017 Request	2,558	2,371	508,416,000
<b>Total Change 2016-2017</b>	<b>56</b>	<b>31</b>	<b>18,939,000</b>

<b>Civil Litigation Information Technology Breakout</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2015 Enacted	95	95	32,696,000
2016 Enacted	95	95	34,558,000
Adjustments to Base	0	0	519,000
2017 Current Services	95	95	35,077,000
2017 Request	95	95	35,077,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>519,000</b>





## 1. Program Description—Civil Program Activity

Civil litigation pursued by the United States Attorneys falls into two basic categories:

(1) affirmative civil litigation, in which the United States is the plaintiff; and (2) defensive civil litigation, in which the United States is the defendant. Affirmative civil litigation cases are actions taken by United States Attorneys to assert and protect the government's interests. They include such issues as the enforcement of the nation's environmental, admiralty, and civil rights laws, as well as the recovery of damages sustained by the government through fraud.

The United States Attorneys also use affirmative civil litigation to recoup money owed and recover damages sustained by the government. Defensive civil litigation includes actions seeking monetary damages for alleged torts, contract violations, and discrimination by the United States and its agencies and employees.

The United States Attorneys may also be called upon to represent the United States in cases that are not clearly defined as either affirmative or defensive civil litigation, but in which the government has an interest, such as bankruptcy cases in which the United States is a party. One key difference between affirmative and defensive civil litigation is that while United States Attorneys have some discretion in deciding which affirmative civil cases they will pursue, they must defend the government in all defensive civil litigation.

Affirmative civil cases can return substantial monies to the federal Treasury. In FY 2015, the USAOs collected \$16.45 billion in civil debts, which is several times more than the entire United States Attorneys' budget. The following cases are examples of the United States Attorneys' affirmative civil successes in FY 2015:

- On February 3, 2015, the Department of Justice, 19 states, and the District of Columbia entered into a \$1.375 billion settlement agreement with the rating agency Standard & Poor's (S&P) Financial Services LLC, along with its parent corporation McGraw Hill Financial Inc., to resolve allegations that S&P had engaged in a scheme to defraud investors in structured financial products known as Residential Mortgage-Backed Securities (RMBS) and Collateralized Debt Obligations (CDOs). The agreement resolves the Department's 2013 lawsuit against S&P, along with the suits of 19 states and the District of Columbia. Each of the lawsuits allege that investors incurred substantial losses on RMBS and CDOs for which S&P issued inflated ratings that misrepresented the securities' true credit risks. Other allegations assert that S&P falsely represented that its ratings were objective, independent and uninfluenced by S&P's business relationships with the investment banks that issued the securities.
- On July 10, 2015, Detroit-area hematologist-oncologist Farid Fata, M.D., was sentenced to 45 years in prison for administering medically unnecessary infusions or injections to 553 individual patients and submitting to Medicare and private insurance companies approximately \$34 million in fraudulent claims. Fata pled guilty in September 2014 to 13 counts of health care fraud, one count of conspiracy to pay or receive kickbacks and





two counts of money laundering. This case was investigated by the Medicare Fraud Strike Force, under the supervision of the Criminal Division's Fraud Section, and the U.S. Attorney's Office for the Eastern District of Michigan.

- On July 7, 2015, in the Eastern District of Kentucky, Vicki S. House, the executive director of a Lexington-based home health agency agreed to pay the U.S. Government \$1.1 million to settle allegations that she provided unlawful compensation to physicians who referred patients to the agency, in violation of the Stark Law. From March 2006 through April 2010, House provided compensation to three local physicians who referred patients to Nurses' Registry. Nurses' Registry then submitted claims to Medicare seeking payment for the services it provided to the patients referred by these physicians. The case was handled by the U.S. Attorney's Office for the Eastern District of Kentucky.
- On July 20, 2015, in the Central District of California, Artak Ovsepiyan was sentenced to 15 years in federal prison for his role in a \$20 million scheme to defraud Medicare and Medi-Cal by fraudulently prescribing expensive anti-psychotic medications and then re-billing the government for those drugs repeatedly. Ovsepiyan, along with three other defendants, were found guilty by a jury of conspiracy to commit health care fraud, aggravated identity theft, conspiracy to misbrand pharmaceutical drugs, false statements to the federal government, and conspiracy to use other persons' identification documents in furtherance of fraud. The scheme generated fraudulent billings of more than \$20 million, of which Medi-Cal and Medicare actually paid more than \$9 million. The case was handled by the United States Attorney's Office for the Central District of California.

Civil matters and cases represent a significant part of the United States Attorneys' workload. In FY 2015, the United States Attorneys received 110,362 civil matters, which represented 45 percent of all of the 247,051 criminal and civil matters received during the fiscal year. Of the civil matters received, 76 percent or 83,770 were defensive matters, ten percent or 11,572 were affirmative matters, and 14 percent or 15,020 were other civil matters. The United States Attorneys filed or responded to 102,104 civil cases in FY 2015, which represented 65 percent of the 157,032 criminal and civil cases filed during the fiscal year. Of the civil cases filed, 81 percent or 82,788 were defensive cases; eight percent or 7,658 were affirmative cases; and 11 percent or 11,658 were other civil cases.

The USAOs' successes in civil defensive litigation preserves taxpayer dollars and enhances the efficient operation of the federal government by defending the policies and programs of federal agencies against individual and class action lawsuits challenging agency authority or compliance with federal laws and the constitution.

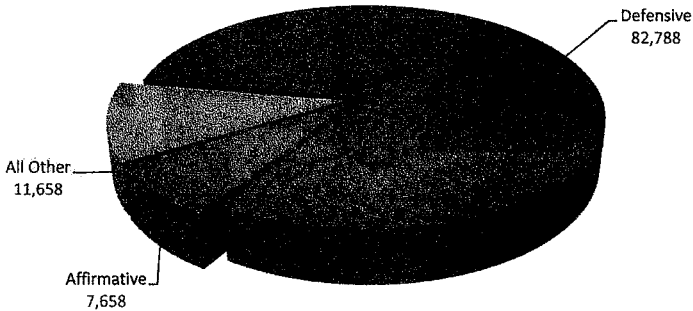
USAOs track the different types of cases where they are able to defend the government and whether or not they are successfully resolved. In affirmative civil cases handled by USAOs, or jointly with the Civil Division, USAOs' successes have resulted in the collection of billions of dollars for the Government and victims of fraud. Between FY 2010 and FY 2015, the number of





civil cases filed or responded to increased by 22 percent or 18,505 - from 83,599 cases to 102,104, and the number of civil cases referred to the United States Attorneys increased by 20 percent or 18,164 - from 92,198 in FY 2010 to 110,362 cases in FY 2015. The number of defensive civil cases filed increased by 26 percent or 17,110 - from 65,678 cases in FY 2010 to 82,788 in FY 2015.

**Civil Workload**  
**FY 2015 Cases Filed/Responded To – 102,104**



### **USAO Success Story**

On December 30, 2014, the United States Attorney's Office for the Northern District of Illinois announced that it collected \$118.9 million in FY 2014. These collections included more than \$29.8 million in criminal debts, more than \$80.4 million in civil actions, and more than \$8.7 million collected through asset forfeiture proceedings, resulting in the office's total collections exceeding more than four times its budget of approximately \$28.1 million in FY 2014. Over the last 11 fiscal years combined, the office has collected more than \$1 billion on behalf of the United States.



## 2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE										
Decision Unit: Civil										
RESOURCES										
		Enacted		Actual		Projected		Changes		Requested (Total)
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FY 2017 Request
CIVIL LITIGATION		2,277	450,940	2,223	480,584	2,340	489,477	31	18,939	508,416
Reimbursable FTE and Costs (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		420	110,552	420	105,421	430	113,445	0	0	430
										113,445
TYPE	STRATEGIC OBJECTIVE	PERFORMANCE		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Workload Measure: Output	2.5, 2.6	Number of Matters Handled		107,155		107,155				107,155
Performance Measure: Output	2.5, 2.6	Total Judgements and Settlements		40,241		40,241				40,241
Performance Measure: Output	2.5, 2.6	Number of Judgements in favor of the U.S. and Settlements		32,976		32,976				32,976
Performance Measure: Outcome	2.5, 2.6	Percentage of Cases Favorably Resolved		80.00%		80.00%				80.00%



PERFORMANCE MEASURE TABLE														
Decision Unit: Civil														
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017				
			Actual	Actual	Actual	Actual	Target	Actual	Target	Target				
2.5, 2.6	Performance Measure	Number of Matters Handled	102,114	116,662	116,346	106,879	107,155	124,472	107,155	107,155				
2.5, 2.6	Performance Measure	Number of Total Judgements and Settlements	39,416	42,618	40,667	39,283	40,241	45,501	40,241	40,241				
2.5, 2.6	Performance Measure	Number of Judgements in favor of the U.S. and Settlements	31,856	32,619	32,606	31,167	32,976	31,995	32,976	32,976				
2.5, 2.6	OUTCOME Measure	Percentage of Cases Favorably Resolved	80.0%	82.0%	82.0%	82.3%	80.0%	61.6%	80.0%	80.0%				
N/A = Data unavailable														





### 3. Performance, Resources, and Strategies

The Civil Decision Unit contributes to the Department's Strategic Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law. Within this goal, the Civil Decision Unit's resources specifically address two of the Department's Strategic Objectives: 2.5 – Promote and protect American civil rights; and 2.6 – Protect the federal fisc and defend the interests of the United States.

#### ***USAO Success Story - Health Care Fraud -***

On June 24, 2015, the United States Attorney's Office for the Northern District of Georgia reached a civil settlement with DaVita Healthcare Partners, Inc., the largest provider of dialysis services in the United States, in the amount of \$450 million to resolve claims that it violated the False Claims Act. This civil settlement resolves allegations brought in a whistleblower action that DaVita devised and employed dosing grids and/or protocols specifically designed to create unnecessary waste of the drugs Venofer and Zemplar. The drugs were packaged in single-use vials, which are intended for one-time use. Medicare would reimburse a dialysis provider for certain waste if the dialysis provider – acting in good faith – discarded the remainder of the drug contained in a single-use vial after administering the requisite dose and/or quantity of the drug to a Medicare patient.

#### **a. Performance Plan and Report for Outcomes**

Prosecution of civil litigation is an essential and vital component of the mission of the United States Attorneys. Affirmative civil litigation seeks redress for fraud, waste, and abuse in federal programs and ensures that the government is fully compensated for the losses and damages caused by those who have enriched themselves at the government's expense. In addition, all lawsuits filed against the federal government must be defended. The United States Attorneys' successes in civil litigation preserve taxpayer dollars and uphold the requirements and intent of federal laws and programs. The performance measure for civil litigation relates to the percentage of judgments and settlements resolved in favor of the government.

#### **b. Strategies to Accomplish Outcomes**

As civil cases are increasingly "electronic" – meaning that technology plays a major role in areas such as electronic case filing and e-Discovery. The technological and resource needs of our civil cases continue to grow. While technology provides a means to increase productivity with existing resources, some USAO personnel have difficulty transitioning to new technological solutions, placing greater demands on technical training and hiring employees with the appropriate skill sets.

Other strategies include:

- Regular reviews and monitoring of case and workload data.
- Leveraging technology to improve efficiency and enhance information flow organization-wide and with our partners.
- Continue to look at operational efficiencies in order to preserve human capital.
- Continue to address emerging training needs through the Office of Legal Education.





### C. Legal Education

Legal Education	Perm. Pos.	FTE	Amount
2015 Enacted	53	53	30,146,000
2016 Enacted	53	53	24,527,000
Adjustments to Base and Technical Adjustments	0	0	390,000
2017 Current Services	53	53	24,917,000
2017 Request	53	53	24,917,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>390,000</b>

Legal Education Information Technology Breakout	Perm. Pos.	FTE	Amount
2015 Enacted	4	4	1,557,000
2016 Enacted	4	4	1,646,000
Adjustments to Base and Technical Adjustments	0	0	24,000
2017 Current Services	4	4	1,670,000
2017 Request	4	4	1,670,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>24,000</b>





## 1. Program Description—Legal Education

The Office of Legal Education (OLE) develops, conducts, and authorizes the training of all federal legal personnel [28 C.F.R. §0.22 (1990)]. OLE coordinates legal education and attorney training for the Department of Justice and other departments and agencies of the Executive Branch. Virtually all of OLE's classroom training is conducted at the National Advocacy Center (NAC), a premier federal training facility in Columbia, South Carolina. The NAC features an integrated instructional and residential facility.

In FY 2015, OLE managed 209 courses and events at the NAC, as well as offsite locations, including traditional advocacy skills training, seminars on substantive areas of the law, leadership training, and automated litigation support training. In FY 2015, 25,989 individuals participated in training hosted by OLE, (13,444 attended live training through courses or other events and 12,545 individuals received training through one of OLE's distance education offerings).

For all of its programs, OLE uses experienced federal trial and appellate attorneys as instructors to present lectures, lead discussion groups, direct evidentiary exercises, and offer personalized critiques. Federal judges also participate in OLE's advocacy courses, presiding over mock trials and mock appellate arguments. The caliber of the OLE faculty and the use of sophisticated videotaping facilities provide students with unique training experiences in trial and appellate advocacy. A significant feature of the advocacy training is the use of "learn-by-doing" exercises which concentrate on courtroom skills. These exercises simulate courtroom activities and provide students with classroom critiques and individual video replay analysis.

In addition to its advocacy skills training, OLE conducts substantive programs on federal criminal, civil, and administrative law for attorneys in the Executive Branch, including those in the Department of Justice. OLE offers training on a wide variety of criminal topics including fraud and white collar crime, cybercrime, violent crime, narcotics prosecutions, and child exploitation. OLE's civil and administrative law training includes instruction on discovery, bankruptcy, federal employment, environmental law, and Freedom of Information Act. Course instruction emphasizes the realities of federal practice. Federal attorneys from every agency, including the Department of Justice, are participants as well as advisors, curriculum developers, lecturers, and instructors. OLE is also meeting the demand for attorney management training for senior criminal and civil attorneys by providing management courses for attorney supervisors of all levels developed by OLE's Justice Leadership Institute (JLI). Additionally, the JLI provides leadership training to USAO attorney and support staff supervisors.

OLE develops and administers paralegal courses covering basic and advanced skills in civil, criminal, and appellate practice. Training for other support staff personnel (e.g., systems managers, Administrative Officers and Budget Officers) in USAOs is provided through OLE, which develops the curriculum and recruits instructors.

OLE provided training in areas covered in the Department's Strategic Plan, including Financial and Mortgage Fraud and Cybercrime, Crimes Against Children, Anti-Terrorism, Violent Crime/Gun Violence Reduction, Crimes in Indian Country, Drug Enforcement, Official





Corruption, Bankruptcy and Sound Management. Of significance for FY 2015 was the Individual Accountability in Corporate Prosecutions Training and the National Reentry Training in support of the Attorney General's Smart on Crime initiative.



Recognizing the need to provide more distance learning opportunities, OLE continued to update and expand its Video on Demand (VOD) library, permitting USAO and DOJ litigating division employees to view OLE programming "on demand" at their desktop through OLE's Learning Management System, LearnDOJ. There are currently more than 681 programs available, including programs on *Brady/Giglio*, e-Discovery, and a New Employee Orientation. In FY 2015, DOJ employees who accessed the VOD library completed more than 74,245 videos. LearnDOJ is accessed by many DOJ components and is administered by the Justice Management Division. LearnDOJ gives OLE increased functionality to build Individual Development Plans, assessment tools, and greater compliance management. It is also available via the Internet and can function as a virtual training system with the ability to integrate technologies such as Adobe Connect.

OLE's Justice Television Network (JTN) is a satellite-based IP video network with over 260 locations, including 92 USAOs (Guam/Northern Marianas excluded). This delivery method currently reaches all USAOs, all FBI Field and international offices, and most DOJ components, including major bureau headquarters in the DC metro area, reaching approximately 60,000 DOJ employees. During its 25 hours of weekly broadcasts, JTN broadcasted 965 programs, including 45 live events, and 35 programs eligible for Continuing Legal Education (CLE).

CLE credit is provided through OLE for many OLE-sponsored courses. OLE is the primary source of instruction for DOJ attorneys and AUSAs from the 94 USAOs. Basic programs for newly hired attorneys include criminal, civil, and appellate advocacy; federal practice seminars; and specialty courses in priority substantive areas of the law. Advocacy skills programs are available to new and experienced trial attorneys. The Criminal Federal Practice course is designed for attorneys with litigation experience who are new to the federal civilian legal system (e.g., former state and military prosecutors), and as continuing training for Department of Justice attorneys after the basic criminal and civil trial advocacy courses. In FY 2015, OLE continued to





provide additional web-based CLE through its contract with West Legal Ed Center, offering 24-hours a day access to more than 7,000 CLE programs from more than 50 leading CLE providers.

During FY 2015, Department attorneys viewed 11,226 West Legal Ed programs, earning over 9,159 CLE credits, further expanding OLE's ability to provide needed training.

OLE's Publications Unit edits and publishes the United States Attorneys' Manual, the United States Attorneys' Bulletin, and a number of practical skills manuals. OLE published six editions of the United States Attorneys' Bulletin on a variety of topics, including Export Control Laws, Violent Crimes, Financial Intelligence, Community Outreach, Environmental Crimes and Criminal Discovery, all of which are accessible on the DOJ Internet website. The Publications Unit continued to maintain and update the USABook, an online legal resource available on the Department intranet that includes electronic versions of all OLE publications, forms including indictment and jury instructions for all circuits and many significant monographs and policy manuals. They also published Blue Books on Immigration Law and the National Security Prosecutor's Manual. In FY 2015, the USABook site received more than 650,000 page views.

OLE continued its tradition of providing training support to Department of Justice personnel assisting foreign prosecutors through the Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT). In FY 2015, OLE staff hosted OPDAT and State Department-sponsored study tours to the NAC for prosecutor training personnel from Albania, Bangladesh, Indonesia, Kenya, Pakistan, the Philippines, Serbia, Singapore and the Ukraine. OLE staff assisted OPDAT with regional prosecutorial training events in Malta (for West Africa) and Croatia (the Western Balkans and Eurasia). OLE staff also worked with OPDAT to provide advice and assistance to the judicial and prosecutorial training centers in Bosnia and Herzegovina.



## 2. Performance and Resource Table

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Legal Education											
RESOURCES											
		Enacted		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		53	30,761	53	30,146	53	24,527	0	390	53	24,917
LEGAL EDUCATION											
Reimbursable FTE and Costs (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)											
TYPE		STRATEGIC OBJECTIVE		PERFORMANCE		FY 2015		FY 2015		FY 2016	
Performance Measure: Outcome		1,2,2.1,2.2,3.2,4, 2.5,2.6; 3.1,3.4,3.8		Number of Students Trained		24,000		25,988		24,000	





### 3. Performance, Resources, and Strategies

The Legal Education Decision Unit contributes to the following Department's Strategic Goals:

**Goal I: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law.** Within this goal, the decision unit's resources address the Department's Strategic Objective: 1.2 - Prosecute those involved in terrorist acts; and 1.4 – Combat cyber-based threat and attacks through the use of all available tools, strong public-private partnership, and the investigation and prosecution of cyber threat actors.

**Goal II: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.** Within this goal, the decision unit's resources address six of the Department's Strategic Objectives: 2.1 - Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers; 2.2 - Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims; 2.3 – Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of licit drugs; 2.4 - Investigate and prosecute corruption, economic crimes, and transnational organized crime; 2.5 – Promote and protect American civil rights by preventing and prosecuting discriminatory practices; and 2.6 – Protect the federal fisc and defend the interests of the United States.

**Goal III: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels.** Within this goal, the decision unit's resources address the Department's Strategic Objectives: 3.1 - Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs; 3.4 - Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society; and 3.8 - Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.

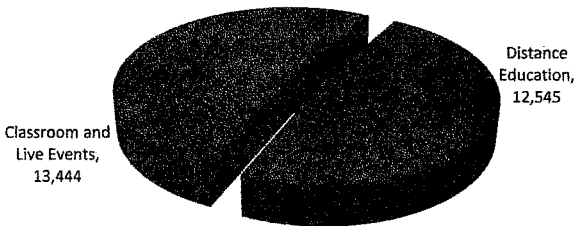




#### **a. Performance Plan and Report for Outcomes**

The performance measure for this decision unit is the number of students trained. In FY 2015, OLE sponsored classroom training and other live events for 13,444 individuals. In addition, approximately 12,545 individuals were trained through one of OLE's distance education offerings, including continuing legal education programs broadcast via satellite, and other means, for a total of 25,989 students trained in FY 2015.

**FY 2015 Individuals Trained**



This compares with a total of 24,045 in FY 2014 –12,568 individuals trained in-person and 11,477 individuals trained by satellite, videotape and other training.

#### **b. Strategies to Accomplish Outcomes**

The United States Attorneys will continue to ensure that high quality legal education is available for basic and advanced legal training through traditional classroom instruction and expanded use of JTN and distance learning.





## V. Program Increases by Item

**Item Name:** e-Discovery Program Initiative

**Strategic Goal:** **Goal II:** Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

**Strategic Objective:**

- Objective: 2.1:** Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers.
- Objective: 2.2:** Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.
- Objective: 2.4:** Investigate and prosecute corruption, economic crimes, and transnational organized crime.
- Objective: 2.6:** Protect the federal fisc and defend the interests of the United States.

**Budget Decision Unit(s):** Criminal and Civil Litigation

**Program Increase:** Positions **138** Attorney **24** FTE **69** Dollars **\$19,634,000**

### Description of Item

The United States Attorneys request a total of 138 positions (24 attorneys, 114 support staff) to (1) increase the number of personnel available to counsel and support USAOs on legal and technical electronic discovery (e-Discovery) matters; (2) provide specialized training on eDiscovery issues for all attorneys and support staff so they have the knowledge and tools necessary to process, analyze, and utilize electronic information in a legally defensible manner; and (3) ensure appropriate levels of eDiscovery resources (including staffing, training, and technology) are available throughout the lifecycle of any investigation or case that the USAO pursues.

### Justification

The USAOs have an immediate need for resources to address the paradigm shift from paper discovery to electronic discovery in a comprehensive manner. As technology has evolved, so has the amount of electronic information that comprises the evidence in our investigations and cases. To keep pace with this change and to ensure that our federal criminal and civil cases are





adequately supported, the United States Attorneys community must devote more personnel – and personnel with the appropriate skill sets – to collect, process, review, and produce e-Discovery. This request seeks to address this core need of the United States Attorneys community, so that no United States Attorney will ever compromise a case, or decline to prosecute or bring a case, because of an inability to process, analyze, or utilize electronic information.

#### Attorneys:

Currently, each USAO designates one civil Electronic Discovery Office Coordinator (EDOC), one criminal eDiscovery Coordinator, and one EDOC-Specialist (a litigation support technologist with eDiscovery expertise). As these designations are collateral duties, the AUSAs who fill these roles also have full case loads. As such, their availability to consult on eDiscovery issues, remain current on eDiscovery law, and provide training to other USAO personnel is limited. Providing full-time eDiscovery attorneys dedicated to consulting with AUSAs, assisting with project management, and drafting USAO-specific guidance would provide a valuable and much needed resource to the offices. These eDiscovery attorneys can address eDiscovery issues throughout the lifecycle of a case instead of on an ad hoc, time-allowed basis.

Providing dedicated eDiscovery attorneys to the USAOs follows the private sector's model for addressing the complex world of eDiscovery. Private law firms employ full time "eDiscovery attorneys" whose role is not to litigate individual cases, but to address and solve the wide range of issues at the intersection of law and technology: the identification, collection, processing, review, discovery, and trial presentation of electronically stored information (ESI). Many corporations have created in-house positions for eDiscovery attorneys or hire outside counsel to fill the same role. These attorneys help bridge the gap between law and technology by bringing together the right people, practices, and technology to solve eDiscovery issues. This proposal seeks to adopt this practice from private industry to upgrade the USAOs' litigation capabilities to be more on par with private law firms.

Given the proliferation of electronic data and the current limited eDiscovery resources in the USAOs, the United States Attorneys' community requires 22 AUSAs dedicated to eDiscovery – specifically, two eDiscovery attorneys for the 11 judicial circuits (excluding the D.C. and Federal Circuits). These positions will allow the USAOs to effectively and efficiently address eDiscovery legal issues and processes in their cases.

#### Litigation Support Technologists:

Litigation Support Technologists assist with a variety of technical eDiscovery needs, including but not limited to:

- Working with AUSAs, client agencies, and agency IT departments to understand agency information architecture, where relevant data may reside, and the format in which relevant data can be extracted from their systems;
- Using eDiscovery processing tools to convert unstructured data so that it may be placed into an electronic document review platform;
- Consulting with AUSAs on the appropriate metadata fields to produce to or request from opposing counsel;





- Setting up electronic data review platforms;
- Advising AUSAs on the appropriate eDiscovery tools for use in a particular case;
- Consulting with AUSAs on effective ways to search large amounts of electronic data for specific information; and
- Using trial presentation software to prepare exhibits for trial.

Current litigation support staffing levels are inconsistent among the USAOs. For example, one office may have no litigation support, while another may rely on a combination of paralegals, legal assistants, and a systems manager to provide litigation support services. In both of these examples, the USAO lacks qualified litigation support technologists to assist with the increasingly technical duties described above. In other instances, large districts may have a team of full-time litigation support technologists, but the team cannot meet the demands of the district's heavy case load. In such instances, paralegals, legal assistants, and even AUSAs (often with little background in the technical aspects of eDiscovery), must navigate how best to handle ESI in their cases, creating a risk that it will not be handled appropriately. This proposal seeks to provide all offices with a sufficient number of qualified automated litigation support specialists who have the expertise necessary to consult with attorneys on technical issues and institute and follow defensible practices with respect to electronic data.

#### Training:

To efficiently and effectively manage electronic data in their cases, AUSAs and support staff require training on eDiscovery issues, including but not limited to how to use existing and new technologies. Current training on these tools is limited to classroom training at the National Advocacy Center, on-demand videos, and brown bag seminars. These training opportunities, however, do not meet the immediate need for case teams to be trained in-district on document review tools using their own case data. Accordingly, this proposal seeks funding to retain contract eDiscovery trainers who will provide in-district training. This training can be invaluable to case teams as it allows them to identify potential limitations with their data sets and shows them how to effectively create and manage sets of documents slated for case team review. It also allows case teams to consult with trainers to assist in the development of complex searches or the use of advanced analytical tools.

#### Information Technology Tools:

The USAOs fund litigation support technology needs on an ad hoc basis. E-Discovery technology proposals must compete with other non-eDiscovery related technology funding requirements, and are often funded through end of year direct funding or Three Percent funding. These funding sources are not dedicated to eDiscovery, and some funding sources have limitations attached to them. Due to the complexity and evolving nature of eDiscovery, there is a clear need to have a portion of direct funds dedicated to eDiscovery. Nowhere is this more apparent than in the selection and adoption of eDiscovery technology. This proposal seeks funding to support a variety of software tools that will address the USAOs' eDiscovery needs now and in the future. It also seeks funding to support a software test lab that will be responsible for testing various software solutions identified by EOUSA to support the mission of the USAOs.





A software test lab, which will be staffed by one attorney and two litigation support technologists, will enhance EOUSA's ability to ensure that the software it purchases not only meets the needs of USAO users but is the most cost effective solution. The test lab will provide formal environment for vetting software tools to identify flaws in design, poor performance, inefficient processes, and any incompatibility issues with hardware.

#### Special Litigation Funds:

The USAOs require additional resources to handle large-scale, data intensive cases that cannot be supported by EOUSA's centralized Litigation Technology Service Center. Such cases require the collection, organization, and analysis of large amounts of electronically stored information, and the limited litigation budget of a USAO can be depleted by the attendant imaging, software, hardware, and analysis costs. Special litigation funds would allow offices to quickly ramp up support and resources to address the unique needs of these cases and to host their data on review platforms supported by contract vendors. We estimate that \$10M in special litigation funds would support 10 such large-scale cases per year.

#### Impact on Performance

The requested resources will address **Goal II: Prevent crime, protect the rights of the American people, and enforce the law;** including **Objective: 2.1:** Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal firearms traffickers; **Objective 2.2:** Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims; **Objective: 2.4:** Investigate and prosecute corruption, economic crimes, and transnational organized crime; and **Objective 2.6:** Protect the federal fisc and defend the interests of the United States.





### e-Discovery Program Initiative Funding

#### Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)

#### Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Attorney	118,658	24	2,847,792	2,054,880	0
Litigation Support Technologist	92,154	114	10,505,556	7,074,954	0
Total Personnel		138	13,353,348	9,129,834	0

#### Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
IT Funding, Training, Contractors, and Litigation	N/A	N/A	6,280,652	0	0
Total Non-Personnel	N/A	N/A	6,280,652	0	0

#### Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
Current Services	0	0	0	0	0	0	0	0
Increases	138	24	69	13,353,248	6,280,652	19,634,000	9,129,834	0
Grand Total	138	24	69	13,353,248	6,280,652	19,634,000	9,129,834	0



**Item Name:****Prevention and Reentry Coordinators****AG Targeted Priority Options:**

Protecting Americans from National Security Threats  
 Protecting Americans from Violent Crime  
 Protecting Americans from Healthcare and Financial Fraud  
 Protecting the Most Vulnerable Members of Society  
 Addressing the Smart on Crime Initiative

**Strategic Goal:**

**Goal III:** Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels

**Strategic Objective:**

**Objective 3.4:** Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society.

**Budget Decision Unit(s):**

Criminal

Program Increase: Positions **53** Attorney **0** FTE **27** Dollars **\$5,000,000**

**Description of Item**

The United States Attorneys request a total of 53 positions, 27 FTE, and \$5,000,000 to support an increase in personnel resources to fully implement the Smart on Crime initiative. This request will support an increase in personnel completely dedicated to implementing the Smart on Crime initiative and to supporting USAO outreach efforts. Smart on Crime is a multi-pronged approach to prioritizing the work of the USAOs and finding holistic and comprehensive solutions to improving public safety and reducing recidivism, while efficiently and fairly utilizing scarce public resources. The Smart on Crime initiative consists of the following five principles:

- I) Prioritize prosecutions to focus on the most serious cases.
- II) Reform sentencing to eliminate unfair disparities and reduce overburdened prisons.
- III) Pursue alternatives to incarceration for low-level, non-violent crimes.
- IV) Improve reentry to curb repeat offenses and re-victimization.
- V) "Surge" resources to violence prevention and protecting the most vulnerable populations.





### **Justification**

The USAOs will utilize the requested resources to hire permanent, full time Prevention and Reentry Coordinators. These positions will allow USAOs to expand their prevention, reentry, diversion, and community outreach work without draining other resources devoted to criminal prosecution. In FY 2015, in addition to allocating over 60 attorneys to work on Smart on Crime enforcement, prevention and/or reentry issues, EOUSA allocated 40 Smart on Crime support positions. These support positions, many of which are now on-board and working, have helped the USAO community as a whole build a more robust presence in the reentry, prevention and community outreach area. The additional Coordinator positions requested here can help those districts that did not receive a Smart on Crime support position last year, as well as those districts that did receive a support position but can effectively utilize an additional Coordinator position, based on the particular needs and ongoing initiatives in that district.

The type of prevention, reentry, and community outreach work that Coordinators can undertake is as varied and unique as the districts themselves. USAOs have a vital role to play both in direct crime prevention efforts and in facilitating and coordinating the crime prevention and reentry efforts of community organizations. The requested Coordinator positions can disseminate information about successful programs and serve as clearinghouses for productive and successful prevention, diversion, or reentry efforts. The new Coordinators can work with local officials to identify organizations that may partner with USAOs in working to lower recidivism.

The USAO community has already made a great start in expanding their role beyond simply the enforcement of federal criminal laws. During FY 2015, at least 51 USAOs participated in a reentry court of some kind. These programs, of course, require collaboration with the courts and cannot be undertaken unilaterally by USAOs. They focus intensive supervision, education, counseling, mentoring, and training efforts on those recently released individuals who are at high or medium risk of committing additional crimes while on supervised release. Federal reentry courts are still being evaluated and studied, but initial indications show that they can be very effective in lowering recidivism. In addition, during FY 2015, at least 25 USAOs participated in a pre-sentence diversion court program. This represents a 56 percent increase from FY 2014, when 16 USAOs responded that they participated in such programs.

USAOs can use the requested Coordinator positions to support both reentry courts and diversion court programs. For instance, the Reentry Coordinator at the USAO in Philadelphia has created an ongoing program whereby law students from local law schools provide legal support to reentry court participants. This can include help in obtaining basic legal documentation, such as a social security card or driver's license, as well as representing the individual in traffic court to address overdue fines or fees that may have accrued when the individual was imprisoned and unable to pay the fine. Creating such a program that draws on area law schools and the local bar association takes time and effort, and is the type of work that a Coordinator can achieve.





USAOs can also play an important role in achieving better employment for reentrants. Clearly, steady and meaningful employment is a key factor in maintaining a crime-free lifestyle. The USAOs in Grand Rapids, MI and in New Orleans have initiated programs that work with the community to identify employers who can employ former offenders for at least two years, and to pair them with suitable, realistic job candidates. Programs such as these improve public safety by breaking down stereotypes and fostering greater employment for formerly incarcerated persons. The requested Coordinator positions could undertake much of the work needed to put such programs in place.

Coordinators can also support USAO prevention and community outreach initiatives. For example, the USAOs in both Boston and Miami are integrally involved in “prison in-reach” programs. These programs bring prosecutors, social services, faith based resources, and mentors to offenders shortly before they are released in an effort to make clear that the entire community is poised to help the returning individual make a successful transition to life after prison. There is a great deal of work to be done in setting up and running these programs, which Coordinators can undertake.

USAOs also continue to address the prevention side of the heroin epidemic. USAOs have held summits on this issue, gathering not only law enforcement stakeholders, but leaders in the relevant health care, addiction, and medico-legal death investigation fields. For instance, the USAO in San Diego recently co-sponsored a successful state-wide summit on heroin and prescription drug abuse. The event brought together renowned experts and speakers on addiction, treatment, enforcement, and family counseling, among other issues. Large summits such as this can take months to plan, and Coordinators can supplement and enhance the “convening power” of the United States Attorney in making such summits a reality.

Other USAOs have created unique programs that not only help prevent crime, but also facilitate a better understanding between the community and law enforcement generally. In Mobile, Alabama, the USAO has developed a creative program that partners the FBI with area high schools to educate the students about law enforcement encounters. Students come to an FBI facility where they and the FBI engage in role play regarding street and home law enforcement encounters and traffic stops. Students are also given the opportunity to see hypothetical crime scenarios from the perspective of law enforcement, seeing the risks and judgment calls that law enforcement must make. By engaging in reverse role plays this program helps bridge the understanding gap that can exist between young people and law enforcement.

Other USAO prevention programs focus on a younger cohort to begin bridging the gap even earlier. For example, an employee from the Delaware USAO, utilizing a structured, age-appropriate curriculum, teaches at-risk 5<sup>th</sup> graders about the social and legal consequences of poor decision making. The USAO Coordinator is in the classroom one hour a week for 18 weeks during the school year. The curriculum focuses on the legal and social consequences of juvenile crimes, such as truancy, illicit drug use, shoplifting and graffiti. Such programs teach students techniques for resolving conflict and resisting peer pressure. These activities help build positive relationships between students and legal authorities, reduce prejudice, increase appreciation of diversity, and help students develop positive aspirations as alternatives to criminal activities.





The type of prevention and outreach work being done across the USAO community is not limited to schools or traditional work with community groups. For example, the USAO in Philadelphia helped support a documentary film authored by a formerly incarcerated person about his experience and others in returning to society after prison. The documentary has been shown to numerous community groups and criminal justice stakeholders, including judges and prosecutors, as well as the public generally. Screenings are followed by a panel discussion with a USAO representative, the film's author, and/or another formerly incarcerated person. The film effectively depicts the realities faced by real people in trying to return to life after prison. All of the work described above can be enhanced and increased with the addition of the requested Coordinator positions.

### **Impact on Performance**

This initiative will address **Strategic Goal III: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels**, specifically **Objective 3.4: *Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society.***

This initiative will further address the **Attorney General's targeted Priority Goal 1: Protecting Americans from National Security Threats; Goal 2: Protecting Americans from Violent Crime; Goal 3: Protecting Americans from Healthcare and Financial Fraud; and Goal 4: Protecting the Most Vulnerable Members of Society**, by dedicating efforts to successfully promote fundamental reforms to the criminal justice system that will improve public safety, save money, and ensure the fair enforcement of Federal laws. Furthermore, the United States Attorneys have been involved in developing the Department's **Strategic Objective Review** to prioritize federal cases and to exercise informed prosecutorial discretion by increased education about understanding of all the factors that comprise the Smart on Crime initiative.





**Prevention and Reentry Coordinators  
Funding**

Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)
120	77	66	17,081,000	120	77	120	10,647,000	120	77	120	28,435,000

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Reentry Coordinator	86,843	53	4,603,000	3,008,000	0
Total Personnel		53	4,603,000	3,008,000	0

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
Training	N/A	N/A	397,000	0	0
Total Non-Personnel	N/A	N/A	397,000	0	0

Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
Current Services	120	77	120	19,414,000	9,021,000	28,435,000	0	0
Increases	53	0	27	4,603,000	397,000	5,000,000	3,008,000	0
Grand Total	173	77	147	24,017,000	9,418,000	33,435,000	3,008,000	0





**Item Name:** Countering Violent Extremism Initiative

**Strategic Goal:** **Goal II:** Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

**Goal III:** Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels.

**Strategic Objective:** **Objective: 2.2:** Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.  
**Objective: 2.4:** Investigate and prosecute corruption, economic crimes, and transnational organized crime.  
**Objective: 3.1:** Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership programs.

**Budget Decision Unit(s):** Criminal Litigation

**Program Increase:** Positions 10 Attorney 0 FTE 5 Dollars \$2,425,750

#### **Description of Item**

The United States Attorneys' request ten Outreach Specialist positions and \$2,425,750 to further develop and implement the Countering Violent Extremism (CVE) initiative. The personnel funding will support the placement of Community Resilience Coordinators (CRCs) within ten USAOs that currently are participating, or will participate, in the CVE initiative. The non-personnel funding will support the efforts of those ten USAOs to partner with and empower their respective communities to address and prevent radicalization and violence.

#### **Justification**

In an effort to prevent all types of extremism that lead to violence, in December 2011, the President announced the *Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism in the United States (SIP)*. United States Attorneys play a critical role in the SIP, particularly with regard to its first prong: enhancing federal engagement with and support to local communities that may be targeted by violent extremists. At its very basic level, CVE focuses on using prevention and intervention approaches to minimize the risk of individuals being inspired by violent extremist ideologies or recruited by violent extremist groups.





In March of 2014, the National Security Council requested assistance from three regions to pilot an initiative to reduce violent extremism: the Greater Boston region, the St. Paul/Minneapolis region, and the Greater Los Angeles area. The United States Attorney in each region was selected as the local lead for the initiative. With the support of the Department of Justice, Federal Bureau of Investigation, Department of Homeland Security, and National Counterterrorism Center, a range of non-governmental, governmental, faith-based, and academic stakeholders in each region began to develop locally-driven frameworks intended to serve as a foundation to assist communities in working together to build resilience and a capacity to prevent individuals, especially young people, from being inspired, recruited, and then radicalized to violence.

Although these three regions were initially selected both for the strength of their existing community collaboration and partnerships, as well as their vulnerability to threats of recruitment, recruitment efforts by extremists are not limited to those regions. United States Attorneys' offices in areas outside of the three initial pilot regions have started grass roots efforts in their communities to address and prevent recruitment, radicalization, and violence and to build community resilience against violent extremism. In addition, as recently as July 6, 2015, President Barack Obama, in remarks made at the Pentagon on the progress on the fight against the Islamic State of Iraq and the Levant (ISIL), stated that the United States must remain vigilant in protecting against attacks on the homeland, which includes acknowledging and addressing that ISIL has been particularly effective in targeting vulnerable populations and communities within the United States. The CVE initiative is an integral part of the strategy to combat ISIL and other terrorist organizations.

### *Community Resilience Coordinators*

Although the United States Attorneys in the pilot regions have achieved notable successes, they have been challenged by a lack of dedicated resources for such an intense and high profile effort. Personnel charged with CVE outreach were asked to dedicate more and more of their time to the initiative, especially in its nascent phase – time that would have been otherwise spent on important existing responsibilities. USAO personnel also faced significant challenges with building local trust and confidence, particularly in Muslim communities, as many Muslim Americans expressed concerns about targeting by the government and raised suspicions about the true scope of the initiative. To some, it appeared as if the USAO was engaging in double-speak – on the one hand, recognizing the vulnerability of certain communities to recruitment efforts and seeking to lend community support to those vulnerable populations, and on the other hand, prosecuting those who provide aid to terrorist organizations.

To address these concerns and in order to fully engage in this initiative in true partnership without stigmatizing any communities, the USAOs seek to hire CRCs who have a social work, social science, and/or community engagement background and can implement community-based prevention approaches that focus on empowering communities to work together to prevent violence. The CRCs will work with nonprofits, civic organizations, and faith-based entities on programs that focus on violence intervention and prevention.





### **Non-Personnel Funding**

Effectively implementing the CVE initiative requires resources to fund community-driven solutions that are not criminal-justice-oriented but instead address community needs and are responsive to the threats posed to vulnerable populations. Some examples of where such funding would be utilized are:

- Prevention efforts focused on youth: self-advocacy and conflict resolution skills; anger management and conflict-resolution skills; mentorship and leadership development; afterschool activities; and promotion of non-violent activism strategies;
- Community Awareness Briefings that provide information to the community on recruitment efforts and warning signs of radicalization;
- Counter-messaging strategies such as internet-based messaging; peer-to-peer support; and town halls/listening sessions;
- Contracts with social workers and case managers to conduct intervention strategies with vulnerable youth;
- Crisis-intervention dialogues to address returning travelers and their families; and
- Various other training and public awareness campaigns.

### **Impact on Performance:**

The requested resources will address **Goal II: Prevent crime, protect the rights of the American people, and enforce the law, Objective 2.2: Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims;** and **Goal III: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels, Objective: 3.1: Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership programs.**

The requested increase in funding is necessary to effectively implement and further develop the National Security Council's CVE initiative, as well as to fulfill the USAOs' responsibilities in crime prevention. The USAOs have been charged with leading this initiative within the selected regions, and have done so without any dedicated resources toward this effort. Despite a strong commitment, resource and personnel constraints are two primary challenges in achieving success, and as the initiative expands, these challenges will grow. In short, the creation of these new positions will fill a gap in the USAOs' existing structure relative to the CVE initiative. With qualified personnel focused on this effort and non-personnel funding available for programs, USAOs will be best positioned to lead and support community stakeholders in efforts to prevent violence extremism and to build resilience in their communities.





### Countering Violent Extremism Initiative Funding

#### Base Funding

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)	Pos	Atty	FTE	\$(000)

#### Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Outreach Specialists	67,575	10	675,750	546,040	0
Total Personnel		10	675,750	546,040	0

#### Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
Outreach Activities	N/A	N/A	1,750,000	0	0
Total Non-Personnel	N/A	N/A	1,750,000	0	0

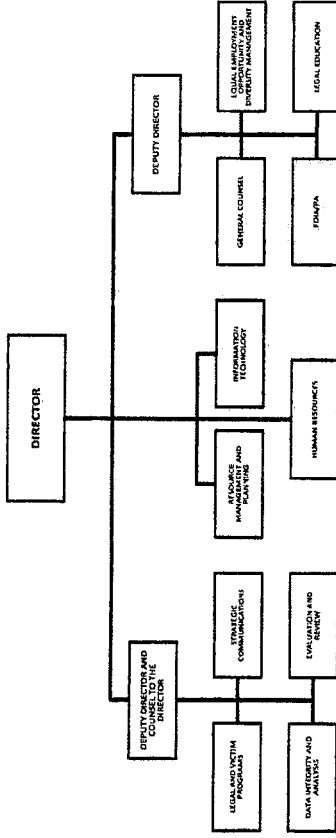
#### Total Request for this Item

	Pos	Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (Change from 2017) (\$000)	FY 2019 Net Annualization (Change from 2018) (\$000)
Current Services	0	0	0	0	0	0	0	0
Increases	10	0	5	675,750	1,750,000	2,425,750	546,040	0
Grand Total	10	0	5	675,750	1,750,000	2,425,750	546,040	0



A: Organizational Chart

EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS



The Principal or Acting Deputy is determined via an internal written designation by the Attorney General

Approved by:  Date: 9/16/14  
Eric A. Holder, Jr.  
Attorney General



B. Summ. Requirements

**Summary of Requirements**

U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	<b>10,637</b>	<b>9,532</b>	<b>1,960,000</b>
2015 Balance Rescission	0	0	-9,000
<b>Total 2015 Enacted with Rescissions 1/</b>	<b>10,637</b>	<b>9,532</b>	<b>1,951,000</b>
<b>2016 Enacted</b>	<b>10,731</b>	<b>10,016</b>	<b>2,000,000</b>
<b>Base Adjustments</b>			
Pay and Benefits	0	30	28,211
Domestic Rent and Facilities	0	0	19,131
<b>Total Base Adjustments</b>	<b>0</b>	<b>30</b>	<b>47,342</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>30</b>	<b>47,342</b>
<b>2017 Current Services</b>	<b>10,731</b>	<b>10,046</b>	<b>2,047,342</b>
<b>Program Changes</b>			
Increases:			
Prevention and Reentry Coordinators (Smart on Crime)	53	27	5,000
Countering Violent Extremism	10	5	2,426
eDiscovery	138	69	19,634
Subtotal, Increases	201	101	27,060
<b>Total Program Changes</b>	<b>201</b>	<b>101</b>	<b>27,060</b>
<b>2017 Total Request</b>	<b>10,932</b>	<b>10,147</b>	<b>2,074,402</b>
<b>2016 - 2017 Total Change</b>	<b>201</b>	<b>131</b>	<b>74,402</b>

1/ FY 2015 FTE is actual



# Summary of Requirements

U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Criminal Litigation	8,105	7,438	1,449,270	8,176	7,623	1,485,996	0	27	35,951	8,176	7,650	1,521,947
Civil Litigation	2,479	2,277	480,584	2,502	2,340	489,477	0	3	11,001	2,502	2,343	500,478
Legal Education	53	53	30,146	53	53	24,527	0	0	390	53	53	24,917
Total Direct	10,637	9,768	1,960,000	10,731	10,016	2,000,000	0	30	47,342	10,731	10,046	2,047,342
Balance Rescission			-9,000			0			0			0
Total Direct with Rescission			1,951,000			2,000,000			47,342			2,047,342
Reimbursable FTE		1,559			1,695			0			1,695	
Total Direct and Reimb. FTE		11,327			11,711			30			11,741	
Other FTE:												
LEAP		0			0						0	
Overtime		71			0			0			0	
Grand Total, FTE		11,398			11,711			30			11,741	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Criminal Litigation	145	73	19,122	0	0	0	8,321	7,723	1,541,089
Civil Litigation	56	28	7,938	0	0	0	2,558	2,371	508,416
Legal Education	0	0	0	0	0	0	53	53	24,917
<b>Total Direct</b>	<b>201</b>	<b>101</b>	<b>27,060</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10,932</b>	<b>10,147</b>	<b>2,074,402</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>27,060</b>			<b>0</b>			<b>2,074,402</b>
Reimbursable FTE		18			0			1,713	
<b>Total Direct and Reimb. FTE</b>		<b>119</b>			<b>0</b>			<b>11,860</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>119</b>			<b>0</b>			<b>11,860</b>	







**Resources by Department of Justice Strategic Goal and Objective**  
**U.S. Attorneys**  
 Salaries and Expenses  
 (Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current			FY 2017 Increases			FY 2017 Total	
	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Services Direct & Reimb FTE	Amount		Direct & Reimb FTE	Amount		Direct & Reimb FTE	Request Amount
<b>Goal 1 Prevent Terrorism and Promote the Nation's Security</b>														
Consistent with the Rule of Law														
1.2 Prosecute those involved in terrorist acts	345	51,056	345	51,056	345	51,056	345	51,056	0	0	0	0	345	51,056
1.4 Combat cyber-based threats and attacks through the use of all available tools, strong public-private partnerships, and the investigation and prosecution of cyber threat actors.	0	0	15	3,043	30	5,186	30	5,186	0	0	0	0	30	5,186
<b>Subtotal, Goal 1</b>	<b>345</b>	<b>51,056</b>	<b>360</b>	<b>54,099</b>	<b>375</b>	<b>56,242</b>			<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>375</b>	<b>56,242</b>
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>														
2.1 Combat the threat, incidence, and prevalence of violent crime by leveraging strategic partnerships to investigate, arrest, and prosecute violent offenders and illegal arms traffickers.	989	173,544	984	174,153	987	182,529	987	182,529	17	4,837	1,004	187,366		
2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.	892	159,911	973	160,722	973	168,368	973	168,368	19	5,808	992	174,176		
2.3 Disrupt and dismantle major drug trafficking organizations to combat the threat, trafficking, and use of illegal drugs and the diversion of illicit drugs.	2,630	471,275	2,811	479,552	2,815	495,087	2,815	495,087	18	0	2,833	495,087		
2.4 Investigate and prosecute corruption, economic crimes, and transnational organized crime.	2,734	488,908	2,922	502,676	2,926	514,639	2,926	514,639	19	5,808	2,945	520,447		
2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices.	77	13,774	95	14,110	95	14,454	95	14,454	0	0	95	14,454		
2.6 Protect the federal fisc and defend the interests of the United States	3,199	572,946	3,413	587,102	3,417	588,437	3,417	588,437	18	5,122	3,435	593,559		
<b>Subtotal, Goal 2</b>	<b>10,501</b>	<b>1,881,358</b>	<b>11,198</b>	<b>1,918,315</b>	<b>11,213</b>	<b>1,963,514</b>			<b>91</b>	<b>21,575</b>	<b>11,304</b>	<b>1,985,089</b>		
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>														
3.1 Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs.	0	0	0	0	0	0	0	0	1	485	1	485		
3.4 Reform and strengthen America's criminal justice system by targeting only the most serious offenses for federal prosecution, expanding the use of diversion programs, and aiding inmates in reentering society.	19	3,412	19	3,412	19	3,412	19	3,412	27	5,000	46	8,412		
3.8 Strengthen the government-to-government relationship between tribes and the United States, improve public safety in Indian Country, and honor treaty and trust responsibilities through consistent, coordinated policies, activities, and litigation.	134	24,174	134	24,174	134	24,174	134	24,174	0	0	134	24,174		
<b>Subtotal, Goal 3</b>	<b>153</b>	<b>27,586</b>	<b>153</b>	<b>27,586</b>	<b>153</b>	<b>27,586</b>			<b>28</b>	<b>5,485</b>	<b>181</b>	<b>33,071</b>		
<b>TOTAL</b>	<b>10,999</b>	<b>1,980,000</b>	<b>11,711</b>	<b>2,000,000</b>	<b>11,741</b>	<b>2,047,342</b>			<b>119</b>	<b>27,060</b>	<b>11,850</b>	<b>2,074,402</b>		

Exhibit D - Resources by DOJ Strategic Goal and Strategic Objective



# Justifications for Technical and Base Adjustments

U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

Pay and Benefits		Direct	Estimate	Amount
		Pos.	FTE	
1	<u>2017 Pay Raise - 1.6%</u> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount requested, \$15,418,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$11,861,000 for pay and \$3,557,000 for benefits.)	0	0	15,418
2	<u>Administratively Determined Pay Plan - USA</u> This request provides for an expected annual pay adjustment of administratively determined salaries for the Assistant United States Attorneys occupying ungraded positions in the United States Attorneys offices (\$7,833,000 for pay and \$2,349,000 for benefits, totaling \$10,182,000)	0	0	10,182
3	<u>Annualization of 2016 Pay Raise</u> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$4,123,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$3,172,000 for pay and \$951,000 for benefits).	0	0	4,123
4	<u>Annualization of 2016 Positions</u> This provides for the 2nd year annualization of 60 new positions appropriated in 2016. Annualization of new positions extends up to 2 years to provide entry level funding in the first year, with a 1 or 2-year progression to a journeyman level. For 2017 increases, this request includes an increase of \$4,286,000 for full-year payroll costs associated with these additional positions.	0	30	4,286
5	<u>Changes In Compensable Days</u> The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation and applicable benefits by 262 compensable days is -\$9,494,000.	0	0	-9,494
6	<u>Employees Compensation Fund</u> The \$120,000 adjustment reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	120
7	<u>Health Insurance</u> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.1 percent. Applied against the 2016 estimate, the additional amount required is \$2,286,000.	0	0	2,286
8	<u>Retirement</u>	0	0	1,290



### Justifications for Technical and Base Adjustments

U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$1,290,000 is necessary to meet our increased retirement obligations as a result of this conversion.			
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>30</b>	<b>28,211</b>
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$2,765,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	2,765
<b>2 Moves - FY 2016 Non-Recur</b> Moves - FY 2016 Non-Recur	0	0	-4,251
<b>3 Moves - FY 2017</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	0	0	20,617
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>19,131</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>30</b>	<b>47,342</b>



F. Crosswalk of 2015 Availability

# Crosswalk of 2015 Availability

U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover		Recoveries/Refunds		FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Amount	Pos	Direct	Actual FTE	Amount
Criminal Litigation	8,105	7,258	1,449,270	0	0	26,966	19,848	3,676	0	8,105	7,258	1,499,760	
Civil Litigation	2,479	2,221	480,584	0	0	0	0	0	0	2,479	2,221	480,584	
Legal Education	53	53	30,146	0	0	0	0	0	0	53	53	30,146	
<b>Total Direct</b>	<b>10,637</b>	<b>9,532</b>	<b>1,960,000</b>	<b>0</b>	<b>0</b>	<b>26,966</b>	<b>19,848</b>	<b>3,676</b>	<b>0</b>	<b>10,637</b>	<b>9,532</b>	<b>2,010,490</b>	
Balance Recession			-9,000			0	0	0	0			-9,000	
Total Direct with Recession			1,951,000			26,966	19,848	3,676				2,001,490	
Reimbursable FTE		1,467			0						1,467		
Total Direct and Reimb. FTE		10,999			0						10,999		
Other FTE:													
LEAP FTE		0			0							0	
Overtime		71			0							71	
Grand Total, FTE		11,070			0							11,070	

## Reprogramming/Transfers

In FY 2015, \$26,966,000 was transferred from the ONDCP HIDTA and the No-year to United States Attorneys, Salaries and Expenses account.

## Carryover:

The United States Attorneys carried a Direct Unobligated balance of \$19,848,000 into FY 2015. The amount came from these sources:

- (1) \$19,553,000 is from the No-Year Salaries and Expenses account; and (2) \$295,000 is the remaining balance from the ONDCP HIDTA.

The \$19,553,000 in unobligated balances in the No-Year account is comprised of: (1) \$1,500,000 to fund expenses at the National Advocacy Center (NAC) located in Columbia, South Carolina; and (2) \$8,000,000 to be used primarily for inflationary adjustments in FY 2015 and to offset obligations like JMD library costs, Transit Subsidy, etc., while operating under a CR.

## Recoveries/Refunds:

Recoveries of prior year unpaid obligations in the amount of \$3,676,000 is anticipated in FY 2015.



**Crosswalk of 2016 Availability**  
**U.S. Attorneys**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount			Direct Pos.	Est. FTE	Amount
Criminal Litigation	8,176	7,623	1,485,996	0	0	40	6,381	750		8,176	7,623	1,493,167
Civil Litigation	2,502	2,340	489,477	0	0	0	0	0		2,502	2,340	489,477
Legal Education	53	53	24,527	0	0	0	0	0		53	53	24,527
<b>Total Direct</b>	<b>10,731</b>	<b>10,016</b>	<b>2,000,000</b>	<b>0</b>	<b>0</b>	<b>40</b>	<b>6,381</b>	<b>750</b>		<b>10,731</b>	<b>10,016</b>	<b>2,007,171</b>
Balance Rescission			0			0	0	0				0
Total Direct with Rescission			2,000,000			40	6,381	750				2,007,171
Reimbursable FTE		1,695			0						1,695	
Total Direct and Reimb. FTE		11,711			0						11,711	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
<b>Grand Total FTE</b>		<b>11,711</b>			<b>0</b>						<b>11,711</b>	

**Reprogramming/Transfers**

In FY 2016, \$40,000 is the anticipated amount that will be transferred from the ONDCP HIDTA to United States Attorneys.

**Carryover:**

The United States Attorneys carried a Direct Unobligated balance of \$6,381,000 into FY 2016. The amount came from these sources:

- (1) \$5,939,000 is from the No-Year Salaries and Expenses account; and (2) \$442,000 is the remaining balance from the ONDCP HIDTA.

**Recoveries/Refunds:**

Anticipated Recoveries of prior year unpaid obligations in the amount of \$750,000 is anticipated in FY 2016.



H. Sumr

Summary of Reimbursable Resources  
United States Attorneys  
Salaries and Expenses  
(Polers in Thousands)

Collections by Source	2015 Enacted			2016 Planned			2017 Request			Increase/Decrease		
	Reimb. Pos.	Actual Reimb. FTE	Amount	Reimb. Pos.	Estim. Reimb. FTE	Amount	Reimb. Pos.	Estim. Reimb. FTE	Amount	Reimb. Pos.	Estim. Reimb. FTE	Amount
Asset Forfeiture Management Staff	48	43	51,673	53	47	66,505	53	47	66,505	0	0	0
Bureau of Alcohol, Tobacco & Firearms (ATF)			145			74			74	0	0	0
Civil Rights Division			9			25			25	0	0	0
Criminal Division			1,484			494			494	0	0	0
Center for Disease Control			380			98			98	0	0	0
GMS/CMSO Medicaid Integrity Group			187			187			187	0	0	0
Debt Collection 3% Fund-ACE Personnel/Special Projects	4	3	2,170	4	3	3,425	4	3	3,425	0	0	0
Debt Collection 3% Fund-ACE Personnel	153	125	43,007	153	125	49,418	153	125	49,418	0	0	0
Debt Collection 3% Fund-Other Personnel	19	16	2,980	20	18	3,560	20	18	3,560	0	0	0
Debt Collection 3% Fund-RMS	24	9	2,234	25	18	13,095	25	18	13,095	0	0	0
Debt Collection 3% Fund-DENT, BRID, Other	47	18	18,885	47	25	34,845	47	25	34,845	0	0	0
Debt Collection 3% Funded HCF-Pharmaceutical Fraud	13	13	2,678	13	13	2,678	13	13	2,678	0	0	0
Debt Collection 3% Funded HCF-Civil Cases			1,273			2,000			2,000	0	0	0
Department of Homeland Security - Border Fence	1	1	213	1	1	316	1	1	316	0	0	0
Department of Interior			38			380			380	0	0	0
Environment and Natural Resources Division			98			48			48	0	0	0
Executive Office for OCE/ET	1,027	852	\$147,086	1,027	975	\$150,228	1,063	983	\$155,323	36	18	5,095
Executive Office for OCE/ET (AFF, Strike Force, FAC)			3,463			7,323			7,323	0	0	0
Executive Office for U.S. Trustees			205			205			205	0	0	0
Federal Bureau of Investigation			327			351			351	0	0	0
Federal Bureau of Prisons			1			1			1	0	0	0
Health Care Fraud and Abuse Control (Mandatory Funding)	177	164	31,400	177	168	31,400	177	168	31,400	0	0	0
Health Care Fraud and Abuse Control (Discretionary Funding)	67	54	15,726	67	56	19,005	67	56	19,005	0	0	0
Justice Management Division			1,163			531			531	0	0	0
National Security Division			531			531			531	0	0	0
Office of Attorney Recruitment & Management			179			181			181	0	0	0
Office of Victims of Crimes	182	169	23,707	182	169	24,958	182	169	24,958	0	0	0
Office of Victims of Crimes (VNS)			4,288			10,779			10,779	0	0	0
Other Misc. Enacted Agreements			14,000			42,336			42,336	0	0	0
Other Workyears Provided	0	0	2,153	0	77	6,305	0	77	6,305	0	0	0
Budgetary Resources	1,762	1,467	371,987	1,768	1,695	470,872	1,805	1,713	475,967	36	18	5,095

Obligations by Program Activity	2015 Planned			2016 Request			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Criminal Litigation	1,293	1,044	262,511	1,293	1,044	332,294	1,336	1,280	337,389	36	18	5,095
Civil Litigation	465	420	105,421	465	420	133,435	465	430	133,445	0	0	0
Legal Education	4	3	4,055	4	3	7,133	4	3	5,133	0	0	0
Budgetary Resources	1,762	1,467	371,987	1,768	1,695	470,872	1,805	1,713	475,967	36	18	5,095

Note: The Reimbursable resources here include Health Care Fraud resources funded through direct collections that are elsewhere shown as direct resources. The Health Care Fraud resources are presented here to indicate that these positions, FTE, and amounts are not funded through DOJ direct appropriations.



## I. Detail of Permanent Positions by Category

## Detail of Permanent Positions by Category

U.S. Attorneys

Salaries and Expenses

(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request		
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	Program Increases	Total Direct Pos.	Total Reimb. Pos.
Miscellaneous Operations (001-0399)	28	0	3	0	0	3	0
Security Specialists (080)	26	3	35	5	0	35	5
Social Science, Psychology, Welfare (0100-0199)	8	16	8	18	0	8	18
Intelligence Series (132)	68	0	62	0	0	62	0
Personnel Management (0200-0260)	209	1	213	1	0	213	1
Clerical and Office Services (0300-0399)	1,459	286	1,405	289	63	1,468	289
Accounting and Budget (500-599)	275	66	290	67	0	290	67
Paralegals / Other Law (900-998)	1,588	353	1,623	366	114	1,737	366
Attorneys (905)	5,454	775	5,518	775	24	5,542	799
Paralegal Specialist (0950)	946	213	979	179	0	979	191
Information & Arts (1000-1099)	51	0	47	0	0	47	0
Business & Industry (1100-1199)	43	8	46	6	0	46	6
Library (1400-1499)	14	0	12	0	0	12	0
Investigation (1800-1899)	0	0	0	0	0	0	0
Criminal Investigative Series (1811)	37	3	36	6	0	36	6
Supply Services (2000-2099)	9	0	7	0	0	7	0
Information Technology Mgmt (2210-2299)	373	6	384	6	0	384	6
General Investigation	49	52	63	51	0	63	51
Total	10,637	1,762	10,731	1,769	201	10,932	1,805
Headquarters Washington D.C.	356	10	356	10	1	357	10
US Fields	10,281	1,752	10,375	1,759	200	10,575	1,795
Foreign Field	0	0	0	0	0	0	0
Total	10,637	1,762	10,731	1,769	201	10,932	1,805



**Financial Analysis -- Program Changes**  
U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Criminal Litigation		Civil Litigation		Total Program Changes	
	Program Increases		Program Increases		Total Program Changes	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-13	88	6,300	48	4,262	114	10,562
GS-12	53	4,129	0	0	53	4,129
GS-11	10	650	0	0	10	650
Ungraded	14	1,737	10	1,241	24	2,978
<b>Total Positions and Annual Amount</b>	<b>145</b>	<b>12,816</b>	<b>58</b>	<b>5,503</b>	<b>201</b>	<b>18,319</b>
Lapse (-)	-72	-6,407	-28	-2,752	-100	-9,159
14.5 - Other personnel compensation	0	0	0	0	0	0
<b>Total FTEs and Personnel Compensation</b>	<b>73</b>	<b>6,409</b>	<b>28</b>	<b>2,751</b>	<b>101</b>	<b>9,160</b>
12.1 - Civilian personnel benefits	2,087		881			2,968
21.0 - Travel and transportation of persons	481		240			721
22.0 - Transportation of things	31		31			32
23.3 - Communications, utilities, and miscellaneous charges	301		116			417
24.0 - Printing and reproduction	13		5			18
25.2 - Other services from non-federal sources	2,632		288			2,920
25.3 - Other goods and services from federal sources	5,085		2,825			7,910
26.0 - Supplies and materials	98		38			136
31.0 - Equipment	1,993		77.5			2,768
<b>Total Program Change Requests</b>	<b>73</b>	<b>19,122</b>	<b>28</b>	<b>7,938</b>	<b>101</b>	<b>27,060</b>



**Summary of Requirements by Object Class**  
U.S. Attorneys  
Salaries and Expenses  
(Dollars in Thousands)

K. Summary of Requirements by Object Class

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Ad. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	8,626	911,413	9,191	922,769	9,328	956,711	137	33,942
11.3 - Other than full-time permanent	706	72,873	825	82,859	819	83,998	-6	1,139
11.5 - Other personnel compensation	0	0	0	12,283	0	12,283	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	93	0	588	0	588	0	0
<b>Total</b>	<b>9,532</b>	<b>996,672</b>	<b>10,016</b>	<b>1,018,499</b>	<b>10,147</b>	<b>1,053,580</b>	<b>131</b>	<b>35,081</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		314,883		312,482		317,497	0	5,015
13.0 - Benefits for former personnel		214		214		0	0	0
21.0 - Travel and transportation of persons		31,197		33,948		33,246	0	-702
22.0 - Transportation of things		2,883		2,979		3,011	0	32
23.1 - Rental payments to GSA		255,050		265,653		268,232	0	2,579
23.2 - Rental payments to others		4,797		4,526		20,892	0	16,366
23.3 - Communications, utilities, and miscellaneous charges		29,980		30,916		31,331	0	415
24.0 - Printing and reproduction		1,642		1,707		1,724	0	17
25.1 - Advisory and assistance services		24,198		40,402		36,347	0	-4,055
25.2 - Other services from non-federal sources		164,837		164,157		165,773	0	1,616
25.3 - Other goods and services from federal sources		42,410		43,728		51,718	0	7,990
25.4 - Operation and maintenance of facilities		2,765		2,838		2,838	0	0
25.6 - Medical care		1,997		2,057		2,057	0	0
25.7 - Operation and maintenance of equipment		10,289		10,596		10,596	0	0
26.0 - Supplies and materials		11,611		11,935		12,062	0	127
31.0 - Equipment		73,059		50,388		53,138	0	2,750
32.0 - Land and structures		14,489		9,624		9,624	0	0
41.0 - Grants, subsidies, and contributions		217		224		224	0	0
42.0 - Insurance claims and indemnities		281		298		298	0	0
<b>Total Obligations</b>		<b>1,983,461</b>		<b>2,007,171</b>		<b>2,074,402</b>	<b>0</b>	<b>67,231</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-19,848		-6,381		0	0	6,381
Transfers/Reprogramming		-26,966		-40		0	0	40
Recoveries/Refunds		-3,676		-750		0	0	750
Balance Rescission		-9,000		0		0	0	0
Unobligated End-of-Year, Available		27,029		0		0	0	0
Unobligated End-of-Year, Expiring		0		0		0	0	0
<b>Total Direct Requirements</b>		<b>1,951,000</b>		<b>2,000,000</b>		<b>2,074,402</b>	<b>0</b>	<b>74,402</b>
Reimbursable FTE								
Full-Time Permanent	1,467		1,695		1,713		18	0
Direct FTE and obligations here do not include Health Care Fraud resources.								

Exhibit K - Summary of Requirements by Object Class



# U.S. Department of Justice

## United States Trustee Program



FY 2017 Performance Budget

Congressional Submission



## TABLE OF CONTENTS

**Contents**

I.	Overview for the United States Trustee Program .....	1
A.	Introduction .....	1
B.	Core Responsibilities and National Priorities .....	1
1.	Consumer Protection .....	2
2.	Shaping Bankruptcy Law .....	3
3.	Enforcement and Oversight Activities .....	4
C.	Program History and Structure.....	4
1.	U.S. Trustee Program Map of Regions and Offices.....	5
2.	Executive Office for United States Trustees .....	5
D.	Challenges .....	6
1.	Maintaining Operations.....	6
2.	Offsetting Collections and the U.S. Trustee System Fund.....	8
3.	Fee Proposal .....	9
4.	Staffing .....	10
5.	Programmatic Challenges.....	11
E.	Program Efforts Toward Integrating Environmental Accountability .....	12
II.	Summary of Program Changes .....	13
III.	Appropriations Language and Analysis of Appropriations Language.....	13
IV.	General Provision Language and Analysis of General Provision Language .....	14
V.	Program Activity Justification .....	14
A.	Administration of Cases.....	14
B.	Performance Tables.....	22
C.	Performance and Strategies.....	25
1.	Performance Plan and Report for Outcomes .....	25
2.	Strategies to Accomplish Outcomes.....	27
VI.	Program Increases by Item .....	29
VII.	Program Offsets by Item .....	31



## United States Trustee Program

### VIII. Exhibits:

- A. Organizational Chart
- B. Summary of Requirements
- C. FY 2017 Program Increases/Offsets by Decision Unit
- D. Resources by DOJ Strategic Goal/Objective
- E. Justification for Technical and Base Adjustments
- F. Crosswalk of 2015 Availability
- G. Crosswalk of 2016 Availability
- H. Summary of Reimbursable Resources
- I. Detail of Permanent Positions by Category
- J. Financial Analysis of Program Changes
- K. Summary of Requirements by Object Class
- L. Status of Congressionally Requested Studies (Not Applicable)



## United States Trustee Program

### I. Overview for the United States Trustee Program

#### A. Introduction

The United States Trustee Program (USTP or Program) is a litigating component of the Department of Justice (DOJ) whose mission is to promote the integrity and efficiency of the nation's bankruptcy system for the benefit of all stakeholders – debtors, creditors, and the public. The USTP mission supports the Department of Justice's Strategic Objective 2.6 – Protect the federal fisc and defend the interests of the United States – by enforcing the Bankruptcy Code and ensuring the effective administration of bankruptcy cases. The Program also supports DOJ's FY 2017 budget priorities to enhance public safety, protect vulnerable Americans and combat white collar crime and financial fraud.

To meet its mission, the USTP requests \$229,717,000 for FY 2017 which supports 1,184 work years. This request funds the most essential positions and operational needs, and provides funding for oversight, mortgage fraud, and creditor abuse enforcement activities – an area that continues to grow in terms of case complexity. The USTP's FY 2017 budget request is anticipated to be fully offset by bankruptcy fees collected and on deposit in the United States Trustee System Fund.<sup>1</sup> In addition, in FY 2017 the USTP proposes to adjust the current quarterly fee structure for the largest chapter 11 debtors.

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*The nation's consumer bankruptcy laws are premised on the notion that honest, but unfortunate debtors should be able to receive a fresh start and return to becoming economically productive members of society; and business debtors should be provided a breathing spell to reorganize their debts and operations to become profitable, job-creating enterprises.*

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Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet at <http://www.justice.gov/02organizations/bpp.htm>.

#### B. Core Responsibilities and National Priorities

The USTP continues to steadfastly carry out core statutory responsibilities of policing debtor abuse and ensuring that private trustees effectively administer estate assets. The USTP also demonstrates great agility and responsiveness in protecting consumer debtors from fraud and abuse; in ensuring bankruptcy law is uniform in all judicial districts; and in maintaining a bankruptcy system that functions fairly and efficiently.

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<sup>1</sup> The FY 2017 revenue estimate assumes that the fee proposal is effective October 1, 2016. The proposed fee structure and FY 2017 revenue estimate were calculated using the bankruptcy filing projections provided in section I.D.5. Any change in bankruptcy filings or date of enactment would impact actual revenue collections.



## United States Trustee Program

### 1. Consumer Protection

A core function of the USTP is to protect consumers by combating bankruptcy fraud and abuse. Since FY 2007, as part of its consumer protection duties, the Program has undertaken a coordinated and sustained national effort to address abusive creditor activity against individual debtors, who are often least able to defend themselves from unscrupulous, improper or fraudulent creditors and other third party conduct. In 2015 alone, the USTP obtained monetary relief of more than \$130 million for non-compliance by mortgage servicers Wells Fargo Bank N.A. (Wells Fargo) and JPMorgan Chase Bank, N.A. (Chase).

On November 5, 2015, the USTP announced a national settlement agreement with Wells Fargo<sup>2</sup> that required the bank to pay \$81.6 million in remediation for its repeated failure to provide legally required notices to homeowners in bankruptcy, thereby denying their opportunity to challenge the accuracy of mortgage payment increases. Wells Fargo acknowledged that it failed to timely file more than 100,000 payment change notices and failed to timely perform more than 18,000 escrow analyses in cases involving nearly 68,000 accounts of homeowners who are or were in bankruptcy. Wells Fargo also agreed to change internal operations and submit to oversight by an independent compliance reviewer.

Eight months earlier, in March 2015, the USTP entered into a settlement agreement with Chase<sup>3</sup> obligating the bank to pay more than \$50 million, including cash payments, mortgage loan credits and loan forgiveness to over 25,000 homeowners who are or were in bankruptcy. The settlement addressed issues uncovered by the USTP involving the robo-signing of payment change notices filed in bankruptcy court, as well as Chase's failure to timely and accurately provide payment change notices and escrow statements to their customers in bankruptcy. Chase also agreed to change internal operations and submit to oversight by an independent compliance reviewer.

The Wells Fargo and Chase settlements were the USTP's 10<sup>th</sup> and 11<sup>th</sup> national settlements, and the seventh and eighth resulting from the Program's creditor enforcement efforts. Previous national settlements, all obtained since 2008, address a broad range of violations from improper disclosure of personally identifiable information to the collection of discharged debt. The USTP generally obtains three key results in its consumer protection settlements:

- remediation of past practices;
- prevention of recurrence; and
- independent verification of compliance.

<sup>2</sup> The USTP's press release is available at <http://www.justice.gov/opa/pr/us-trustee-program-reaches-816-million-settlement-wells-fargo-bank-na-protect-homeowners>.

<sup>3</sup> The USTP's press release is available at <http://www.justice.gov/ust/press-releases/us-trustee-program-reaches-50-million-settlement-jpmorgan-chase-protect-homeowners-bankruptcy>.



## United States Trustee Program

In FY 2017, the Program anticipates expanding its national enforcement efforts to address a growing concern regarding poorly performing consumer practitioners, including national and Internet-based law firms that violate bankruptcy practice requirements. Debtors, creditors, and the court systems are victims of improper, fraudulent, or abusive practices by those who represent debtors in bankruptcy courts.

### 2. Shaping Bankruptcy Law

One of the USTP's most important functions is to develop case law by participating in appeals of bankruptcy-related legal matters to help clarify the law, produce consistency within the bankruptcy system, and preserve the integrity of the bankruptcy process. The USTP identifies important emerging issues, develops uniform legal positions, and advocates them as a party and as *amicus curiae*.<sup>4</sup> The USTP has handled an increasing number of appeals in recent years, many of which may have a profound and long-standing effect on the bankruptcy system. The Program participated in 96 appeals during FY 2015, and received written decisions in 55 appeals, winning 51 of them.

The USTP also works to shape the bankruptcy law by engaging in outreach and training to address significant priorities that range from local to international. The USTP is actively involved at the local level with participants in our nation's bankruptcy community including bankruptcy judges, private trustees appointed by the U.S. Trustees, and bankruptcy practitioners, as well as national groups that represent these stakeholders or work within the bankruptcy system framework such as the Judicial Conference of the United States' Advisory Committee on Rules of Bankruptcy Procedure. The USTP plays a key role in the International Association of Insolvency Regulators, an international organization that brings together the collective experiences and expertise of government insolvency regulators from jurisdictions around the world. This year, a senior representative from the USTP made a presentation at the annual general meeting on achieving the right balance between debtor and creditor protection.

Further, it is the USTP that frequently must act alone to vindicate the strictures of the Bankruptcy Code. The USTP's actions in policing professional fees are a perfect example of this role. The USTP promulgated new guidelines in late 2013 for attorneys in large chapter 11 cases, which were designed to reflect significant changes in the legal industry and the complexity of business bankruptcy reorganization cases, as well as to enhance transparency and public confidence in the integrity and soundness of the bankruptcy compensation process. Counsel have by and large agreed to abide by the guidelines; large firms have improved internal billing practices and processes; and firms are providing greater discounts and taking cost-cutting measures that previously had rarely been provided in large bankruptcy cases. The General Accountability Office issued a report in September 2015 reviewing the U.S. Trustee Program's updated attorneys' fee guidelines for larger chapter 11 cases, and did not recommend any changes in the guidelines or USTP enforcement policy.

<sup>4</sup> When the USTP acts as *amicus curiae*, it is not a party to the case, but is permitted by the court to provide information, such as legal opinion, testimony or a brief, that directly affects the case.



## United States Trustee Program

### 3. Enforcement and Oversight Activities

As the watchdog of the bankruptcy system, the Program employs a broad range of enforcement and oversight activities to ensure the system functions fairly and efficiently for all stakeholders. By statute, the Program has standing to participate in each of the 685 thousand to more than 1.5 million bankruptcy cases filed annually within its jurisdiction. These activities include:

- Combatting fraud and abuse by debtors and creditors by taking tens of thousands of civil enforcement actions each year, including those not requiring formal resolution by a court, for a monetary impact of more than \$1 billion. Since the Program began tracking its civil enforcement and related actions in 2003, it has taken more than 686,000 actions with a monetary impact in excess of \$16.3 billion.
- Providing oversight of chapter 11 cases by taking actions that range from objecting to excessive and unreasonable professional fees and improper management bonuses, to reviewing debtors' disclosure statements and proposed plans of reorganization, and to seeking dismissal of cases where there is little likelihood of reorganization or the debtor fails to exercise its fiduciary obligations.
- Supervising private trustees who administer chapters 7, 12, and 13 bankruptcy cases and distribute more than \$10 billion in assets each year. This duty involves reviewing more than 110,000 case reports per year, reviewing hundreds of trustee operations, and performing other trustee oversight and auditing tasks.
- Participating in nearly 100 appeals annually to the bankruptcy appellate panels, district courts, circuit courts of appeals, and the U.S. Supreme Court.
- Identifying and referring cases of potential criminal wrong-doing to law enforcement, training law enforcement who investigate bankruptcy crimes, and assisting the U.S. Attorneys in the prosecution of cases through Program attorneys who are cross-designated as Special Assistant U.S. Attorneys.

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*For more information on Program activities, see the Annual Report of Significant Accomplishments at [http://www.justice.gov/ust/ea/public\\_affairs/annualreport/index.htm](http://www.justice.gov/ust/ea/public_affairs/annualreport/index.htm).*

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### C. Program History and Structure

The USTP is responsible for overseeing the administration of bankruptcy cases and private trustees under 28 U.S.C. § 586 and 11 U.S.C. § 101, *et seq.* The Program was established by the Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, *et seq.*) as a pilot effort encompassing 18 judicial districts. Through the enactment of the Bankruptcy Judges, U.S. Trustees, and Family Farmer Bankruptcy Act of 1986, the Program expanded to 21 regions nationwide, covering all

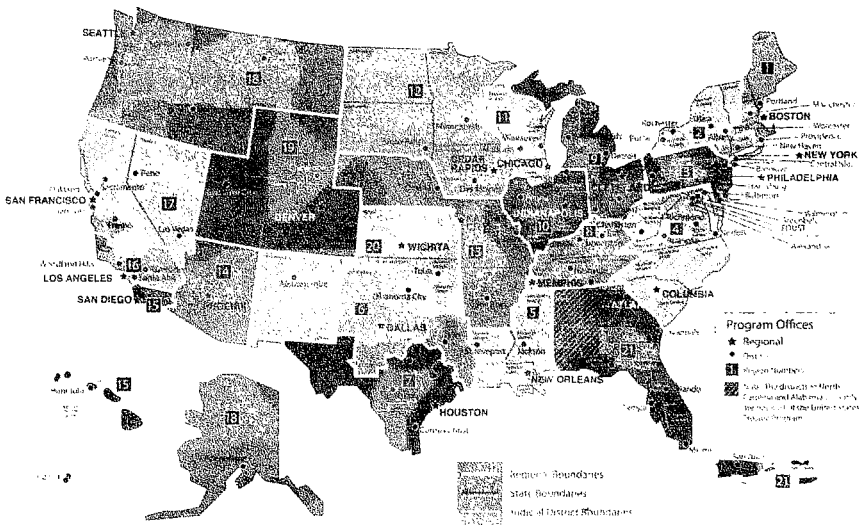


## United States Trustee Program

Federal judicial districts except Alabama and North Carolina. Since 1989, the Program's appropriation has been fully offset by the United States Trustee System Fund (Fund), which consists primarily of fees paid by parties and businesses invoking bankruptcy relief.

The Program has a headquarters office in Washington, D.C., led by a Director; 21 regions managed by U.S. Trustees; and 92 district office locations in 46 states supervised by Assistant U.S. Trustees.<sup>5</sup> In FY 2015, the Program had 1,099 full time equivalent employees, consisting of attorneys, financial analysts, paralegals, and support staff. More than 90 percent of the Program's employees are located in the district offices.

### 1. U.S. Trustee Program Map of Regions and Offices



### 2. Executive Office for United States Trustees

The USTP's Executive Office for U.S. Trustees (EOUST) sets policy, directs litigation, and manages Program operations and staff. The Office of the Director directly supervises the U.S. Trustees and the operations of the EOUST and has primary responsibility for liaison with the

<sup>5</sup> During FY 2014 and FY 2015, the Program completed two consolidations of offices (Brooklyn with Manhattan and Woodland Hills with Los Angeles), and plans to complete a third consolidation in FY 2016 (Oakland with San Francisco). This will bring the number of the USTP field office locations to 92 (versus the 95 reported in prior years).



## United States Trustee Program

Department, Congress, the Judiciary, private trustee organizations, and other stakeholders in the bankruptcy system (e.g., professional associations, debtors, and creditors). The EOUST also includes the Office of the General Counsel, the Office of Oversight, the Office of Criminal Enforcement, the Office of Planning and Evaluation, the Office of Administration, and the Office of Information Technology.

### **D. Challenges**

The United States Trustee Program, like other federal organizations, faces several external and internal challenges.

#### **1. Maintaining Operations**

The largest immediate challenge facing the USTP is its ability to maintain the high level of enforcement activities and bankruptcy services for all stakeholders in a challenging budget environment. Over the last ten years the Program has successfully taken on substantial new duties under the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA), greatly expanded its national consumer protection initiatives (including investigating mortgage servicer misconduct and fraudulent legal service providers), undertaken more complex litigation and initiated efforts to enhance security at public meetings of creditors. These enforcement efforts have yielded billions of dollars in settlements in recent years. Despite this workload expansion, full funding for adjustments-to-base (ATBs) has not been consistently appropriated. Most recently, in FY 2016, the USTP requested but was not appropriated \$2.2 million in ATBs.

The USTP will have to make difficult operational decisions to absorb these costs, including potential reductions to debtor audits, oversight of private trustees who administer approximately \$10 billion in assets, field operations, and other Program infrastructure.

The Program has already integrated innovative strategies to find cost effective solutions to maximize appropriated resources while addressing significant challenges including an evolving and complex caseload. To successfully undertake these challenges, the USTP examined the following internal functions closely to find ways to cut costs, increase efficiency, and enhance services.

#### *Consolidation of Functions*

The Program piloted and implemented nationwide a number of work process changes by consolidating at the regional level functions previously conducted in each field office, freeing valuable time for field office personnel to pursue other enforcement priorities and also providing greater consistency in case administration. This consolidation includes certain administrative areas of trustee oversight, chapter 11 quarterly fee review, and bankruptcy case data extraction and download. For example, the USTP approves and files Trustee Final Reports (TFRs) that provide for distribution of chapter 7 estate funds to creditors in accordance with statutorily prescribed priorities. TFRs must be reviewed and approved by the USTP, and filed with the



## United States Trustee Program

Bankruptcy Court, within 60 days of receipt. Consolidation has resulted in more efficient and consistent review of TFRs, now conducted by only a few specially trained staff members who focus on this area.

### *Co-Location of Work Space*

The USTP has achieved considerable savings by returning underutilized space and reducing space allocations as leases expire. In total, since FY 2012, the Program estimates it will have returned over 45,000 square feet of space. This includes co-locating several Program field offices, providing the dual benefit of reducing costs of office space while increasing operational efficiencies. In FY 2014 and FY 2015, the USTP completed the co-location of two offices (Brooklyn with Manhattan and Woodland Hills with Los Angeles), and a third co-location of offices (Oakland with San Francisco) is targeted for completion in FY 2016. In addition to co-locating field offices, when it is feasible and justifiable, the Program co-locates Section 341 meeting rooms in federal buildings with security.

### *Improved Security at Public Meetings*

Section 341 of the Bankruptcy Code requires the U.S. Trustee to convene a meeting of creditors in every bankruptcy case. At the Section 341 meeting, the debtor must appear and answer questions under oath from the U.S. Trustee, any trustee appointed in the case, creditors, and other parties in interest regarding the administration of the bankruptcy estate and the debtor's liabilities and financial condition. In addition, these meetings are open to the general public. The USTP acquires space for Section 341 meeting rooms in secured locations when feasible and justifiable. This is not always possible, however, due to a lack of available space, as well as the infrequency of meetings in remote locations. As a result, over 100 of the 400 + meeting rooms are currently situated in non-federal space with less than optimal security, including commercial space and low or no cost space in hotel conference rooms and local government facilities like public libraries. Because of their nature, Section 341 meetings may be contentious, and the increased safety and security risks warrant the adoption of appropriate security measures.

In FY 2015, the USTP initiated a multifaceted strategy to provide efficient and effective Section 341 meeting room security. The Program is working with other components of the Department of Justice on an initiative to identify and share secured space. The USTP is also working to identify opportunities to share or acquire space that the federal courts do not use on a full-time basis. This space is typically located within secure federal facilities, with court security officers available. Finally, the USTP initiated a pilot program at the end of FY 2015 under which armed guards provided by the Federal Protective Service will be present at Section 341 meetings in 14 locations that the Program deemed most in need of additional security. Through this pilot, the USTP anticipates learning how to most efficiently provide additional security, including the number of guards necessary to simultaneously protect multiple rooms and adjustments to docket schedules to reduce costs. The USTP will use this knowledge as it expands security services in FY 2017 to priority Section 341 meeting room sites with heightened safety concerns, funds for which are being requested in FY 2017 enhancements.



## United States Trustee Program

*Use of Technology for Streamlining and Cost Savings*

The Program employs technology to improve operations while reducing costs. The USTP upgraded its video teleconferencing equipment in field offices nationwide, allowing the Program to avoid additional travel costs by increasing the use of video teleconferences for meetings and training programs.

The USTP also initiated using low-cost alternative and internal resources to reduce the cost of accessing bankruptcy court documents. The cost of accessing documents through the federal courts' Public Access to Court Records (PACER) system previously totaled approximately \$1.5 million annually. The USTP's Office of Information Technology designed and launched an internal application providing docket-like views of cases using data obtained and utilized in other Program databases. During the second half of FY 2013, the Program also began transitioning from PACER to a third party vendor that allows access to bankruptcy court records nationwide. Together, these changes resulted in average annual savings of nearly \$800,000 in FY 2014 and FY 2015.

## 2. Offsetting Collections and the U.S. Trustee System Fund

Since 1989, the Program's appropriation has been fully offset by bankruptcy fees paid primarily by those who use the bankruptcy system. Two categories of fees generate nearly all of the revenue for the Fund. The first category is the filing fee paid at the commencement of each case for chapters 7, 11, 12, and 13,<sup>6</sup> and the second category is the quarterly fee paid by chapter 11 debtors. All fees are deposited in the Fund and offset the USTP's annual appropriation.

Beginning in FY 2016, revised appropriation language was enacted in which the full appropriation is initially derived from the General Fund of the Treasury and subsequently offset by net fees received during the fiscal year and balance in the Fund.

The following table reflects actual and projected revenue collected by source, for the period FY 2011 – FY 2017.

Bankruptcy Fees by Source	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Actual	FY 2015 Actual	FY 2016 President's Budget	FY 2017 Est. without Fee Increase	FY 2017 Est. with Fee Increase
Bankruptcy Filing Fees	\$ 110,529	\$ 94,073	\$ 81,374	\$ 69,518	\$ 60,515	\$ 63,200	\$ 49,200	\$ 49,200
Chapter 11 Quarterly Fees	\$ 155,810	\$ 139,289	\$ 126,948	\$ 110,623	\$ 92,688	\$ 98,100	\$ 73,000	\$ 197,800
Interest on Earnings on Investments	\$ 1,005	\$ 652	\$ 902	\$ 744	\$ 650	\$ 900	\$ 857	\$ 857
Other	\$ 197	\$ 123	\$ 142	\$ 178	\$ 76	\$ 150	\$ 143	\$ 143
<b>Total Available</b>	<b>\$ 267,541</b>	<b>\$ 234,137</b>	<b>\$ 209,366</b>	<b>\$ 180,263</b>	<b>\$ 153,829</b>	<b>\$ 260,350</b>	<b>\$ 223,100</b>	<b>\$ 248,000</b>

<sup>6</sup> The USTP receives a portion of these filing fees as specified in statute.



## United States Trustee Program

In most years, revenues deposited in the United States Trustee System Fund exceeded appropriations such that the Fund achieved a balance of well over \$200 million in FY 2013. Generally, excess fees are deposited during periods of increasing bankruptcy case filings and fee collections, and funds are withdrawn to cover the Program's appropriation during periods of declining case filings. For instance, between FY 2006 and FY 2008, the Fund was drawn down from \$258 million to \$93 million, while from FY 2009 to FY 2012, the Fund grew back to over \$200 million.

Bankruptcy filings are in the midst of a six-year decline, and have not in recent years followed traditional historical patterns. Based upon recent filing trends, the USTP projects a continued decline in bankruptcy filings and associated fees through FY 2017.<sup>7</sup> Offsetting collections in FY 2016 are projected to cover approximately 70 percent of the Program's appropriation, with the remainder being drawn from the Fund. As a result, the balance in the Fund is projected to decline from \$99 million at the end of FY 2015 to \$36 million in FY 2016. Absent any legislative changes made to the fee amounts paid to the Fund, the Program is predicted to exhaust the balance of the Fund around the start of FY 2017 and fall \$71 million short of offsetting the FY 2017 requested appropriation.

To address these issues, the USTP proposes to adjust quarterly fees for the largest chapter 11 debtors, which should allow the Program to continue to fully offset appropriations from deposits to the Fund. Unlike other bankruptcy fees that are set administratively by the Judicial Conference of the United States, the filing fees and quarterly fees paid to the USTP are set in statute and cannot be adjusted by the USTP. Filing fees and quarterly fees generate the vast majority of revenue for the United States Trustee System Fund. The Program's current fee rates became effective in 2005 for filing fees and 2008 for quarterly fees.

### 3. Fee Proposal

In FY 2017, the USTP proposes to revise chapter 11 quarterly fees for the largest Chapter 11 debtors. The proposed fee structure would allow the USTP Director to adjust the quarterly fee, within specified limits, imposed in cases with quarterly disbursements of at least \$1 million. Initially, the fee would be set at the lesser of 1 percent of disbursements or \$250,000. Beginning in fiscal year 2020, the USTP Director may adjust the fee no more than once a fiscal year, provided that the amount does not exceed the lesser of 1 percent of disbursements or \$250,000.

Importantly, to ensure that small businesses and other debtors with lower disbursements do not pay additional fees, cases with quarterly disbursements under \$1 million are excluded from the proposed adjustment in chapter 11 quarterly fees. About 98 percent of debtors who voluntarily identify themselves in the bankruptcy system as meeting the Bankruptcy Code's definition of a

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<sup>7</sup> USTP estimates are based on recent filing trends and do not consider other economic factors, draw dates for high yield bonds, or other considerations frequently cited by commentators who make filing predictions.



## United States Trustee Program

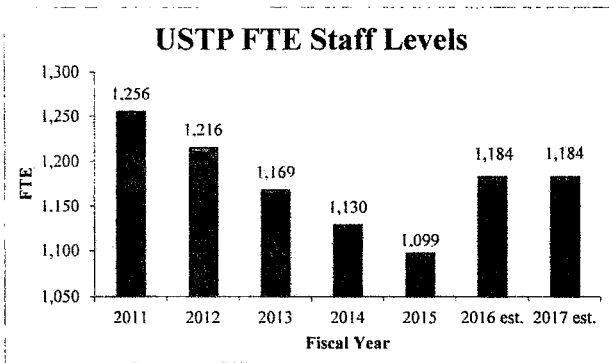
small business have quarterly disbursements under \$1 million.<sup>8</sup> For these small business debtors, the existing fee structure remains unchanged.

The proposed fee structure and FY 2017 revenue estimate were calculated using the bankruptcy filing projections provided in section I.D.5. Any change in bankruptcy filings would impact actual revenue collections. Additionally, the FY 2017 revenue estimate assumes that the fee proposal is effective October 1, 2016. Initially setting quarterly fees for the largest chapter 11 debtors with quarterly disbursements of \$1 million or more at 1 percent subject to a cap of \$250,000 should provide adequate revenue to allow the Program to continue to offset appropriations through offsetting collections and the balance in the Fund.

### 4. Staffing<sup>9</sup>

Over the past four years, the USTP has sustained a net loss of more than 150 staff or over 10 percent of total staff. The Program is in the process of backfilling 50 percent of these mission critical positions. While USTP's cadre of dedicated professionals continues to fulfill mission priorities, the impact of lower staff levels has adversely impacted the Program's mission. Further, with over 90 percent of its budget now comprised of essentially fixed costs such as personnel and rent, the Program has few options left to continue to absorb any reductions along with standard inflationary costs.

The following chart reflects actual and projected USTP staffing levels in full-time equivalents (FTE) for FY 2011 through FY 2017.



<sup>8</sup> Generally, 11 U.S.C. § 101(51D) defines a small business debtor as an individual, partnership, or corporation engaged in commercial or business activities that has aggregate noncontingent liquidated debts of not more than \$2,490,925, subject to adjustment every three years.

<sup>9</sup> A Congressional Budget Office Cost Estimate Report dated February 28, 2005, for the BAPCPA implementation indicated that the USTP needed at least 220 additional staff positions from FY 2005- FY 2010, but only a fraction of these were funded, and USTP staffing remains near pre-BAPCPA levels.



## United States Trustee Program

The Program manages 92 field office locations nationwide, the Executive Office, and more than 400 sites where Section 341 meetings are held. In addition, staff appears in court in more than 300 locations nationwide.

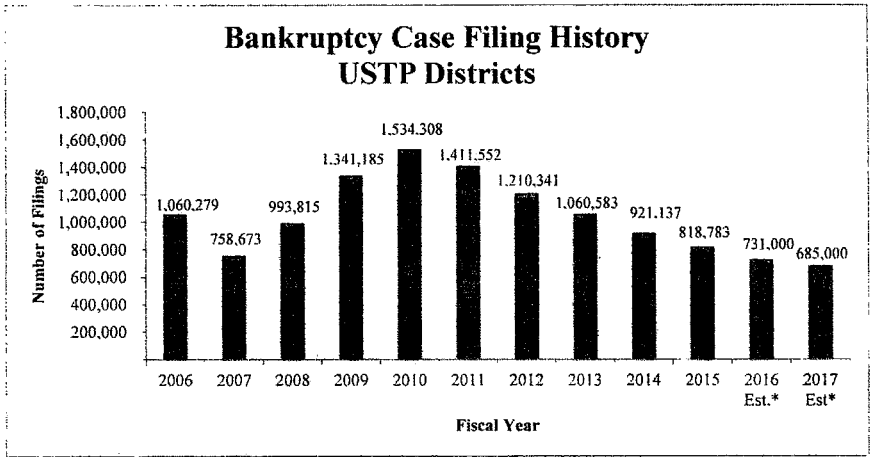
### 5. Programmatic Challenges

- *Coordination with the Judicial Branch.* The Program depends on the exchange of electronic data with the U.S. Bankruptcy Courts to ensure timely processing of bankruptcy cases. The Program must work cooperatively with the Administrative Office of the U.S. Courts to ensure that the systems that are in place support an effective and efficient bankruptcy process.
- *Unpredictable Legal Challenges.* Legal challenges to the Bankruptcy Code are unpredictable in scope and number. The USTP enforces and defends challenges to provisions of the Bankruptcy Code, including by litigating issues of first impression.
- *Evolving and Complex Caseload.* The USTP's sustained heavy workload in civil enforcement, along with the sheer sophistication of fraud schemes and abusive activities, place an incredible burden on the USTP staff to move cases through the system efficiently. In addition to carrying out statutory duties, including means testing and credit counseling oversight, the Program remains very much involved in new and complex issues associated with national mortgage servicers, other consumer protection issues, and large chapter 11 bankruptcy filings.
- *Bankruptcy Filings.* The volatility in the number and location of bankruptcy filings creates challenges in case management. For the past century, filings have generally increased about two-thirds of the time and decreased the other one-third. However, in recent years, bankruptcy filing rates have been extraordinarily unpredictable, with unprecedented volatility that some experts attribute to changes in the law, low interest rates, declining consumer credit, and the availability of distressed debt funding in the capital markets. Many of these factors are subject to sudden change, as shown by the explosion in the number of bankruptcy filings from FY 2008 to FY 2010. Filings from FY 2014 to 2017 are estimated to be fewer than one million per year for the first time since FY 2008. The following chart reflects actual and projected filings for fiscal years 2006 through 2017.<sup>10</sup> Based upon trend analysis, and without regard to changes in external economic conditions, the USTP projects a continued decline in bankruptcy filings and associated fees through FY 2017.

<sup>10</sup> The chart reflects bankruptcy filings under all chapters of the Bankruptcy Code, as reported by the Administrative Office of the U.S. Courts (AOUSC). Fiscal years 2016–2017 are current estimated filings.



## United States Trustee Program



#### E. Program Efforts Toward Integrating Environmental Accountability

The USTP continues its work to improve its environmental management activities. The Program actively participates in a number of recycling and other greening initiatives and ensures compliance with existing Federal Acquisition Regulations. The following activities reflect the Program's continuing efforts toward managing and improving its environmental and health safety matters:

- The USTP's Facilities Management Division works with the General Services Administration to ensure the use of environmentally preferable building products and materials for the design, construction, and operation of commercially owned office space occupied by the Program.
- As required by Federal Acquisition Regulation (FAR) 23.705, the Program makes every effort to purchase electronic products that are Electronic Product Environmental Assessment Tool registered, or EnergyStar Compliant products. Such products include computer monitors, desktop computers, notebook computers, printers, and copiers.
- As required by FAR Subpart 23, the Program purchases supplies that are environmentally preferable products made from recycled content, such as copier paper, file folders, pens, and remanufactured toner cartridges.



## United States Trustee Program

- Recycling of paper products, cans, bottles, and plastics is encouraged throughout the Program – an effort highlighted through the use of signage, posters, and the continual availability of appropriate recycling receptacles.

## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	Estimated FTE	Dollars (\$000)	
Section 341 Meeting Room Security	The USTP requests \$2,135,000 to provide security services at priority Section 341 meeting room sites with heightened safety concerns.	0	0	\$2,135	29

## III. Appropriations Language and Analysis of Appropriations Language

The FY 2017 budget request includes proposed changes in the appropriations language set forth and explained below. New language is *italicized and underlined*, and language proposed for deletion is bracketed.

### United States Trustee System Fund

For necessary expenses of the United States Trustee Program, as authorized, [\$225,908,000]*\$229,717,000*, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, deposits to the United States Trustee System Fund and amounts herein appropriated shall be available in such amounts as may be necessary to pay refunds due depositors: *Provided further*, That, notwithstanding any other provision of law, fees collected pursuant to section 589a(b) of title 28, United States Code, shall be retained and used for necessary expenses in this appropriation and shall remain available until expended: *Provided further*, That to the extent that fees collected in fiscal year [2016]*2017*, net of amounts necessary to pay refunds due depositors, exceed [\$225,908,000]*\$229,717,000*, those excess amounts shall be available in future fiscal years only to the extent provided in advance in appropriations Acts: *Provided further*, That the sum herein appropriated from the general fund shall be reduced (1) as such fees are received during fiscal year [2016]*2017*, net of amounts necessary to pay refunds due depositors, (estimated at [\$162,400,000]*\$248,000,000*) and (2) to the extent that any remaining general fund appropriations can be derived from amounts deposited in the Fund in previous fiscal years that are not otherwise appropriated, so as to result in a final fiscal year [2016]*2017* appropriation from the general fund estimated at \$0.

### Analysis of Appropriation Language

No other substantive changes are proposed at this time.



## United States Trustee Program

**IV. General Provision Language and Analysis of General Provision Language**

Sec. XXX. (a) Section 1930(a) of title 28, United States Code, is amended

- (1) in paragraph (6) by striking “\$6,500 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000;” and all that follows and inserting in lieu thereof:

- (A) “1 percent of disbursements, or \$250,000, whichever is less, for each quarter in which disbursements total \$1,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.”;
  - and

- (B) “Beginning in fiscal year 2020, the Director of the Executive Office for United States Trustees may adjust (no more frequently than once per fiscal year) the fee for each quarter in which disbursements total \$1,000,000 or more, not to exceed 1 percent of disbursements, or \$250,000, whichever is less.”

- (2) This section and the amendment made by subsection (a) shall take effect October 1, 2016, or on the first day of the calendar quarter following the enactment of this Act, whichever is later, and shall apply to all cases pending or filed under title 11 of the United States Code on or after the effective date of the amendment.

**Analysis of General Provision Language**

The proposed language amends 28 U.S.C. § 1930(a)(6) to allow the Director of the Executive Office for United States Trustees (Director) to adjust the quarterly fee, within specified limits, imposed in larger cases filed pursuant to chapter 11 of title 11, United States Code, with quarterly disbursements of at least \$1 million. Initially, the fee would be set at the lesser of 1 percent of disbursements or \$250,000. Beginning in fiscal year 2020, the Director may adjust the fee no more than once a fiscal year, provided that the amount does not exceed the lesser of 1 percent of disbursements or \$250,000. The proposed fee would take effect the first calendar quarter after the date of enactment. There is no effect on outlays.

**V. Program Activity Justification****A. Administration of Cases**

The USTP budget is contained in one decision unit, the Administration of Cases, which encompasses all operational activities and includes the direct cost of all outputs, indirect costs, and common administrative systems. There are two main Program activities: (1) enforcement; and (2) case and trustee administration. The work years and associated funding are allocated to these Program activities based upon the direct, productive hours of the USTP staff performing enforcement and case administration activities, as well as resources directly related to the performance of these activities. Administrative and other overhead costs are allocated based upon the direct hours expended for the two Program activities.



## United States Trustee Program

<i>Administration of Cases</i>	Direct Pos.	Estimated FTE	Amount (\$ in thousands)
2015 Enacted	1,314	1,174	\$ 225,908
2016 Enacted	1,314	1,184	\$ 225,908
Adjustments to Base and Technical Adjustments	-	-	\$ 1,674
2017 Current Services	1,314	1,184	\$ 227,582
2017 Program Increases	-	-	\$ 2,135
2017 Request	1,314	1,184	\$ 229,717
<b>Total Change 2016 - 2017</b>			<b>\$ 3,809</b>

<i>Administration of Cases</i>	Direct Pos.	Estimated FTE	Amount (\$ in thousands)
<b>Information Technology Breakout</b>			
2015 Enacted	39	39	\$25,594
2016 Enacted	39	39	\$25,465
Adjustments to Base and Technical Adjustments	-	-	-\$1,656
2017 Current Services	39	39	\$23,809
2017 Request	39	39	\$23,809
<b>Total Change 2016 - 2017</b>			<b>-\$1,656</b>

*General Civil Enforcement*

A core function of the USTP is to combat bankruptcy fraud and abuse. The Program combats fraud and abuse committed by debtors by seeking denial of discharge for the concealment of assets and other violations, by seeking case conversion or dismissal if a debtor has an ability to repay debts, and by taking other enforcement actions. Similarly, the Program combats fraud and abuse committed by attorneys, bankruptcy petition preparers, creditors, and others against consumer debtors by pursuing a variety of remedies, including disgorgement of fees, fines, and injunctive relief.

During FY 2015, the USTP offices reported taking more than 31,000 formal and informal civil enforcement actions, yielding in excess of \$1.16 billion in debts not discharged in chapter 7, fines, and other remedies. The USTP attorneys prevailed in 98.5 percent of the actions resolved by judicial decision or consent in the fundamental areas of dismissal for abuse (11 U.S.C. § 707(b)), denial of discharge (11 U.S.C. § 727), fines and injunctions against bankruptcy petition preparers (11 U.S.C. § 110), and disgorgements of attorneys' fees (11 U.S.C. § 329).

*Means Testing*

The Program also administers and enforces the "means test" as required under the BAPCPA. Under the means test, individual debtors with income above their state median are subject to a statutorily prescribed formula to determine disposable income. The formula is based partially on allowable expense standards issued by the Internal Revenue Service for its use in tax collection. The primary purpose of the means test is to help determine eligibility for chapter 7 bankruptcy relief.



## United States Trustee Program

In FY 2015, approximately 11 percent of chapter 7 debtors had income above their state median. Of those cases filed by above median income debtors, about 6 percent were “presumed abusive” under the means test. Of those presumed abusive cases that did not voluntarily convert or dismiss, the Program exercised its statutory discretion to decline to file a motion to dismiss in about 67 percent of the cases after consideration of the debtor’s special circumstances, such as recent job loss, that justified an adjustment to the current monthly income calculation.

### Consumer Protection

The USTP is active in the Department’s efforts to protect Americans from financial fraud and abuse, particularly by mortgage servicers who inflate their claims or otherwise fail to comply with bankruptcy requirements of accuracy, disclosure, and notice to their customers in bankruptcy. The USTP played a leading role in the historic \$25 billion National Mortgage Settlement (NMS) announced by the Attorney General in 2012, and remained actively involved post-settlement through its service as co-chair of the NMS Monitoring Committee. The Monitoring Committee included representatives from the Department of Housing and Urban Development and state attorneys general and was tasked with ensuring compliance with the NMS by the settling servicers. The Program continues to investigate and seek redress against the settling servicers who are bound by the NMS, as well as by non-settling servicers and new entrants to the mortgage servicing market for violations of the bankruptcy statutes and rules.

In addition, in recent years, the USTP has addressed other multi-jurisdictional violations against consumer debtors with a coordinated nationwide enforcement approach. As a result, the Program has participated in or played a substantial role in 11 nationwide settlements, including eight settlements to protect consumer debtors against national creditors. These national settlements provide relief for victimized debtors, require systemic corrective actions so such violations do not recur, and uphold the integrity of the bankruptcy system.

For example, as part of its coordinated activity to protect consumers from creditor abuse, on November 5, 2015, the USTP announced a national settlement agreement with Wells Fargo that required the bank to pay \$81.6 million in remediation for its repeated failure to provide legally required notices to homeowners in bankruptcy, thereby denying their opportunity to challenge the accuracy of mortgage payment increases. Wells Fargo acknowledged that it failed to timely file more than 100,000 payment change notices and failed to timely perform more than 18,000 escrow analyses in cases involving nearly 68,000 accounts of homeowners who are or were in bankruptcy. Wells Fargo also agreed to change internal operations and submit to oversight by an independent compliance reviewer.

Eight months earlier, in March 2015 the Program announced the settlement with Chase obligating the bank to pay more than \$50 million, including cash payments, mortgage loan credits and loan forgiveness to over 25,000 homeowners who are or were in bankruptcy. Chase acknowledged that it filed in bankruptcy courts around the country more than 50,000 payment change notices that were improperly signed, under penalty of perjury, by persons who had not reviewed the accuracy of the notices. Chase also acknowledged that it failed to file timely,



## United States Trustee Program

accurate notices of mortgage payment changes and failed to provide timely, accurate escrow statements. In addition to the cash payments totaling \$50 million, Chase agreed to make necessary changes to its technology, policies, procedures, internal controls and other oversight systems to ensure that the problems identified do not recur, and to be subject to an independent compliance review by a monitor who will file public reports with the bankruptcy court.

### ***Criminal Enforcement***

The Program has a statutory duty to refer matters to the U.S. Attorney's offices for investigation and prosecution that "relate to the occurrence of any action which may constitute a crime." 28 U.S.C. § 586(a)(3)(F). The statute also requires that each U.S. Trustee shall assist the U.S. Attorney in carrying out prosecutions. The Program submits an annual report to Congress that details the number and types of criminal referrals made by the Program. In FY 2015, the USTP made 2,131 criminal referrals.

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*For more information on criminal referrals, see the annual reports to Congress:*  
[http://www.justice.gov/ust/eo/public\\_affairs/reports\\_studies/index.htm](http://www.justice.gov/ust/eo/public_affairs/reports_studies/index.htm)

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For example, a defendant who pleaded guilty to bankruptcy fraud, wire fraud, and money laundering was sentenced in the District of Oregon to four 70-month terms in prison and one 60-month term, with the sentences to run concurrently, followed by three years of supervised release. He also was ordered to pay \$1.1 million in restitution. The defendant admitted that he devised a scheme to defraud an elderly woman of \$1.1 million, lied under oath during his bankruptcy case, and attempted to launder the money he received from the fraud scheme. The U.S. Trustee's office in Portland, Oregon, referred the criminal matter and provided substantial assistance in the investigation and prosecution of the defendant. The U.S. Trustee also filed a complaint objecting to the debtor receiving a discharge for making false statements in documents filed with the bankruptcy court, falsely testifying under oath in the bankruptcy case, fraudulently transferring, removing or concealing assets both before and after the bankruptcy case was filed, and failing to satisfactorily explain his loss or deficiency of assets. Prior to trial, the debtor waived his discharge, which prevented him from discharging approximately \$148 million in unsecured debt.

### ***Financial Fraud***

The Program has been an active member of the President's Financial Fraud Enforcement Task Force since 2009, and its offices participate in more than 75 local bankruptcy fraud working groups, mortgage fraud working groups, and other specialized task forces throughout the country. The USTP conducts extensive training for federal, state, and local law enforcement personnel, USTP staff, and private bankruptcy trustees (with more than 3,500 trained in FY 2015), and publishes internal resource documents. In addition, Program staff – including



## United States Trustee Program

attorneys, bankruptcy analysts, and paralegals – are frequently called upon to assist with investigations and to provide expert or fact testimony at criminal trials.

### *Chapter 11 Oversight*

As the USTP has stepped up its enforcement in the chapter 11 arena, it is increasingly clear that our role as watchdog is essential to vindicate congressional mandates in the Bankruptcy Code. Even when debtor companies and some of their major creditors agree on a course of action, the interests of other stakeholders often are implicated. The USTP's role as a watchdog of the bankruptcy system allows it to present issues for judicial decision even where parties either will not, or lack the financial wherewithal to, litigate. Although the USTP should never substitute its business judgment for that of economic stakeholders, it is our job to ensure that the Code and Rules are followed by all participants in the bankruptcy system. This view of our role has led us to oppose both debtors and creditors on issues such as payment of attorneys fees, executive bonuses, and matters of corporate governance. In addition to monitoring and taking action on financial reports, disclosure statements, applications to employ professionals, and carrying out other chapter 11 statutory duties required by 28 U.S.C. § 586(a), the U.S. Trustee has responsibility for ensuring accountability by company management and professionals employed in chapter 11 cases in such areas as:

*Attorneys Fee Guidelines:* The USTP polices compliance with statutory standards for awarding attorney and other professional fees in chapter 11 cases. In particular, the USTP has advanced major reforms in large chapter 11 case attorney billing practices by issuing new guidelines that require greater transparency and market-driven rates. The guidelines, which became effective November 1, 2013, reflect almost two years of consultation and review, and incorporate input from judges, professional organizations, practitioners, academics, and the public. The USTP conducted extensive outreach on the new guidelines to ensure that practitioners understood the expected disclosures and other provisions of the guidelines, and will consistently and prudently enforce the guidelines in districts throughout the country. Although the emphasis will be to promote compliance and avoid unnecessary litigation, the Program will vindicate the principles underlying the guidelines through enforcement actions where necessary, including appeals of adverse court decisions.

*Executive Bonuses:* The USTP reviews executive bonuses and other compensation for compliance with Section 503(c) and is often the only participant in the bankruptcy case that is willing or well-positioned to seek enforcement of that section. In the BAPCPA 2005 bankruptcy reform law, Congress sought to curtail the practice of chapter 11 debtors' executives awarding themselves lavish bonuses during the bankruptcy case, which were often styled as "retention programs" that ostensibly dissuaded those executives from seeking employment elsewhere.

In many cases, the U.S. Trustee's formal or informal objections have resulted in substantial voluntary changes to the debtor's proposed executive compensation programs. Other cases required formal court action. For example, in the case of *Loehmann's Holdings Inc.*, the Bankruptcy Court for the Southern District of New York agreed with the U.S. Trustee's



## United States Trustee Program

Manhattan office that the chapter 11 debtors' bonus plan was a disguised key employee retention plan that violated the Bankruptcy Code. As a result, the court denied the debtors' request to pay bonuses totaling up to \$655,250 to the debtors' chief operating officer and general counsel. In *GT Advanced Technologies*, the Bankruptcy Court for the District of New Hampshire sustained the U.S. Trustee's objection and denied the purported "incentive" bonuses for the debtor's management totaling \$2.1 million. The court agreed that these bonuses were disguised retention bonuses prohibited by the Code and further denied another bonus plan of \$1.5 million because it was not justified by the facts and circumstances of the case. In a series of rulings during FY 2013, in the highly publicized case of American Airlines (*In re AMR Corp.*, 497 B.R. 690 (Bankr. S.D.N.Y. 2013)) the Bankruptcy Court for the Southern District of New York sustained the U.S. Trustee's objections to a severance payment of nearly \$20 million for its departing chief executive officer.

*Independent Trustees and Examiners:* The Program's responsibilities in business reorganization cases also include the appointment of trustees when there are grounds to suspect that current management has participated in gross mismanagement, fraud, dishonesty, or other improper activity. The USTP also seeks the appointment of examiners when independent investigations are needed. By way of example, the U.S. Trustee appointed chapter 11 trustees in cases such as *TelexFree LLC* (the debtor purported to provide inexpensive Internet phone service worldwide but actually operated a massive cross-border pyramid scheme), *ISoltech, Inc.* (the debtor allegedly installed uncertified solar panels in U.S. military bases and commercial facilities), and *Soundview Elite, Ltd.* (involving self-dealing by the managers of Cayman Islands mutual funds).

### *Appellate Practice and Challenges to the Bankruptcy Code*

One of the Program's most important roles has been to develop consistent case law. The USTP is the only participant in the bankruptcy system with a national perspective and a responsibility to develop coherent case law in all jurisdictions. The USTP has been handling a large number of appeals, many of which may have a profound and long-standing effect on the bankruptcy system. In FY 2015, the Program participated in 96 appeals beyond the bankruptcy court, including nearly two dozen cases at the United States court of appeals level.

One of the ways the USTP protects the bankruptcy system is by policing misconduct by bankruptcy professionals who violate their obligations to their clients, the court and the bankruptcy estate. The Program defended on appeal judgments holding those professionals accountable for their misdeeds. In one recent case, a chapter 7 trustee was removed from all his cases after it was uncovered that he had tried to overcharge the bankruptcy estate by surreptitiously billing for personal expenses not necessary to the administration of the estate. On appeal, the USTP successfully defended his removal. *Smith v. Robbins (In re IFS Fin. Corp.)*, 803 F.3d 195 (5th Cir. 2015). When an attorney not only failed to provide a benefit to his client (the debtor), but also took actions that were detrimental to the debtor and caused the debtor to incur unnecessary fees, the Program successfully defended an order denying compensation to the attorney, disgorging his attorney's fees, and suspending him from practicing in that court. *Needler v. Casamatta (In re Miller Auto. Grp. Inc.)*, 536 B.R. 828 (B.A.P. 8th Cir. 2015). The



## United States Trustee Program

Program also successfully defended sanctions against a debtor's attorney who told his client to lie about her assets and her financial transactions in violation of the Bankruptcy Code. *Bisges v. Gargula (In re Clink)*, 770 F.3d 719 (8th Cir. 2014). Further, the Program successfully defended sanctions imposed upon an attorney who improperly filed court documents while suspended and then lied about it in court. *Septowski v. Neary (In re Jones)*, No. 14-971, slip op. (N.D. Tex. June 17, 2015). Finally, the Program successfully defended an order significantly reducing a bankruptcy attorney's fees because no attorney-client relationship existed during the periods when the disputed services were provided and, even if such a relationship had existed, the services did not benefit the estate and the attorney's conflict of interest barred any recovery of the disputed fees in any event. *Ressler v. Harrington (In re Gold)*, No. 13-1744, slip op., 2015 WL 3796102 (D. Conn. June 18, 2015).

The United States Supreme Court heard five bankruptcy cases during its 2014 term, including three in which the United States participated as amicus. The USTP provides assistance to the Solicitor General in analyzing bankruptcy cases before the high Court and was listed among the government's counsel in two of the briefs filed during the 2014 term. Among the issues addressed are the constitutional authority of bankruptcy courts, *Wellness Int'l Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015); standards for determining the finality of bankruptcy court orders, which affected not only the denials of proposed consumer debt repayment plans at issue in the case, but also many other matters (e.g., USTP motions to disqualify counsel and objections to their fees), *Bullard v. Hyde Park Sav. Bank*, 135 S. Ct. 1686 (2015); and the right of attorneys to obtain additional fees for defending objections to their fee applications, *Baker Botts LLP v. ASARCO LLC*, 135 S. Ct. 2158 (2015). In the 2015 term, which is ongoing, the USTP has assisted the Solicitor General in arguing that debtors should be liable for debts obtained through intentional fraudulent schemes even if they do not involve a false statement or false representation, *Husky Int'l Electronics v. Ritz*, No. 15-145 (S. Ct.). These and other cases illustrate the importance of the USTP's participation in appeals to promote coherent and consistent development of case law and ensure compliance with the commands of the Bankruptcy Code.

### *Trustee Administration*

The Program appoints and supervises private trustees, who are not government employees, to administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. Chapter 7 trustees collect the debtor's assets that are not exempt from creditors, liquidate the assets, and distribute the proceeds to creditors. Chapter 12 and chapter 13 trustees evaluate the financial affairs of the debtor, make recommendations to the court regarding confirmation of the debtor's repayment plan, and administer the court-approved plan by collecting payments from the debtor and disbursing the funds to creditors in accordance with the priorities of the Bankruptcy Code.

The Program instructs trustees concerning their duties to debtors, creditors, other parties in interest, and the U.S. Trustee; trains trustees and evaluates their performance; reviews their financial operations; ensures the effective administration of estate assets; and intervenes to



## United States Trustee Program

investigate and recover the loss of estate assets when embezzlement, mismanagement, or other improper activity is suspected or alleged.

At the end of FY 2015, the Program supervised the activities of 982 chapter 7 trustees, 36 chapter 12 trustees, and 177 chapter 13 trustees. In FY 2015, chapter 7 trustees administered approximately 55,000 asset cases that generated more than \$3 billion in funds, while chapter 12 and chapter 13 trustees administered over 1.2 million cases and disbursed more than \$6.8 billion.



## United States Trustee Program

**B. Performance Tables**

1. PERFORMANCE AND RESOURCE TABLE											
Appropriation: United States Trustee Program											
Decision Unit: Administration of Cases											
DOJ Strategic Goal/Objective: 2.6 Protect the federal fisc and defend the interests of the United States.											
		Target		Actual		Projected		Changes		Requested (Total)	
								Current Services Adjustments & FY 2017 Program Changes			
WORKLOAD/ RESOURCES		FY 2015		FY 2015		FY 2016				FY 2017 Request	
Number of Chapter 7, 11, 12 and 13 Cases Filed											
Total Filings <sup>a</sup>											
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
TYPE / Strategic Objective	Performance /Resources	1,174	\$225,908	1,099	\$225,908	1,184	\$225,908	0	\$3,809	1,184	\$229,717
Program Activity	1. Civil Enforcement	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		450	\$86,500	421	\$86,500	453	\$86,500	0	\$1,459	453	\$87,959
Efficiency Measure	No. of 707(b) inquiries per successful outcome	7.0		5.2		7.0		0.0		7.0	
	Percent of Trustee Final Reports reviewed within 60 days <sup>2</sup>	New Measure FY 2017		New Measure FY 2017		New Measure FY 2017		New Measure FY 2017		95%	
WORKLOAD/ RESOURCES											
Program Activity	2. Case and Trustee Administration	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		724	\$139,408	678	\$139,408	731	\$139,408	0	\$2,350	731	\$141,758
Outputs	Number of successful actions related to consumer protection	2,400		2,545		2,400		-200		2,200	
	Number of successful discharge complaints	600		395		475 <sup>a</sup>		0		475	
	Potential Additional Returns to Creditors through Civil Enforcement and Related Efforts	\$950,000,000		\$1,168,495,384		\$950,000,000		\$0		\$950,000,000	
	Litigation success rate <sup>2</sup>	New Measure FY 2017		New Measure FY 2017		New Measure FY 2017		New Measure FY 2017		95%	

1/ The Program has discontinued reporting the number of bankruptcy case filings on the performance and resource table. The decision to discontinue reporting this measure was made in collaboration with JMD as the measure was established as a workload measure and is not a performance measure.

2/ The Program added two new measures in FY 2017, the percent of Trustee Final Reports reviewed within 60 days and the Program's overall litigation success rate

3/ The FY 2016 target for the number of successful discharge complaints differs from the FY 2016 President's Budget.



## United States Trustee Program

### Data Definitions:

*Chapter 7:* A liquidation case. A trustee is appointed to sell the debtor's non-exempt assets and distribute the proceeds to creditors in accordance with the priorities of the Bankruptcy Code. Generally, absent fraud or abuse, the remaining debts of individual debtors are discharged. Chapter 7 cases include individuals and businesses.

*Chapter 11:* A reorganization case. The debtor usually remains in possession of its assets, continues to operate its business, and repays and/or readjusts debts through a plan that must be approved by creditors and the bankruptcy court. Chapter 11 cases are generally business cases.

*Chapter 12:* A debt adjustment case by a family farmer or family fisherman. The debtor usually remains in possession of its assets, continues to operate its business, and repays creditors, in part or in whole, through a court-approved chapter 12 plan over a period not to exceed five years.

*Chapter 13:* A debt adjustment case by an individual with regular income. The debtor retains property, but repays creditors, in whole or in part, through a court-approved chapter 13 plan over a period not to exceed five years.

*Number of Section 707(b) inquiries per successful outcome:* Inquiries made under 11 U.S.C. § 707(b)(2) and (b)(3) help the Program assess an individual debtor's eligibility for chapter 7 relief. If the debtor is above the applicable state median and calculations show disposable income above a specified amount, there is a presumption of abuse. In many cases, this requires the debtor to either agree to convert the case to chapter 13 or dismiss (cancel) the chapter 7 bankruptcy petition, voluntarily or through contested litigation. This efficiency measure is calculated by dividing the sum of all Section 707(b)(2) and (b)(3) inquiries made by the Program to debtors or their attorneys in a fiscal year by the number of successful outcomes relating to 707(b)(2) and (b)(3). A successful outcome is defined as a conversion to a more appropriate bankruptcy chapter, a dismissal of the bankruptcy case, or an abuse motion granted. A lower ratio suggests the Program is doing a better job of focusing staff effort (inquiries) on bankruptcy petitions requiring Program action.

*Percent of Trustee Final Reports reviewed within 60 days (new measure in FY 2017):* This measure is the efficiency rate for Trustee Final Reports (TFRs). Under the Memorandum of Understanding with the Administrative Office of the U.S. Courts, TFRs must be reviewed and approved by the USTP, and filed with the Bankruptcy Court, within 60 days of receipt. Case trustees distribute chapter 7 estate funds to creditors in accordance with USTP approved TFRs.

*Number of successful actions related to consumer protection:* This measure consists of formal motions and complaints granted in a bankruptcy court and successful inquiries made by the U.S. Trustee to prevent fraud, abuse, and error resulting from the inappropriate actions of creditors, petition preparers, attorneys, mortgage servicing agencies, and rescue mortgage scams. The measure includes actions under 11 U.S.C. §§ 110, 526 and 329, False/Inaccurate/Improper Claims, Discharge/Stay Violations under 11 U.S.C. § 524, Abuse of Reaffirmation Procedures,



## United States Trustee Program

Improper Solicitation, Objection to Relief from Stay Motions, and Other Actions for Attorney Misconduct.

*Number of successful discharge complaints:* This measure consists of successful formal discharge complaints filed by the USTP in a bankruptcy court to prevent fraud and abuse by individual debtors. These complaints result in waiver denial or revocation of a discharge of debt. It is the most serious civil remedy available to the Program in its effort to prevent fraud and abuse in the bankruptcy system and is taken to resolve issues such as hidden assets, unreported income, and exaggerated expenses. (This measure does not include successful discharge complaints against debtors who are ineligible due to a prior discharge or who failed to complete a debtor education course.)

*Potential Additional Returns to Creditors through Civil Enforcement and Related Efforts:* Program actions have a significant financial impact, and this measure tracks the amounts involved as the result of the Program's formal and informal actions. The majority of this measure is attributable to debts not discharged in chapter 7 and potentially available to creditors. Other amounts included are fee requests and claims reduced or withdrawn, fees disgorged, and sanctions and fines against professionals.

*Litigation success rate (new measure in FY 2017):* This measures the Program's aim for excellence in litigation, including exercising sound judgment, diligence, and discretion to bring the strongest actions given limited Program resources. The success rate is calculated as the number of actions favorably resolved (granted or sustained) divided by the total number of actions decided (granted, sustained, overruled, or denied) in any given year.



## United States Trustee Program

PERFORMANCE MEASURE TABLE									
Appropriation: United States Trustee Program									
Decision Unit: Administration of Cases									
Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Efficiency Measure	No. of 707(b) inquiries per successful outcome	4.4	4.4	4.7	4.8	7.0	5.2	7.0	7.0
	Percent of Trustee Final Reports reviewed within 60 days <sup>1/</sup>	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	95%
Outputs	Number of successful actions related to consumer protection	3,335	3,259	4,018	2,829	2,400	2,545	2,400	2,200
	Number of successful discharge complaints	586	557	551	410	600	395	475 <sup>2/</sup>	475
	Potential Add'l. Returns to Creditors	\$2,539 M	\$1,982 M	\$1,659 M	\$1,071 M	\$950 M	\$1,168 M	\$950 M	\$950 M
	Litigation success rate <sup>1/</sup>	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	New Measure FY 2017	95%

1/ The Program added two new measures in FY 2017, the percent of Trustee Final Reports reviewed within 60 days and the Program's overall litigation success rate.

2/ The FY 2016 target for the number of successful discharge complaints differs from the FY 2016 President's Budget.

## C. Performance and Strategies

### 1. Performance Plan and Report for Outcomes

Since FY 2010, the USTP has incurred a staffing decrease of over 10 percent. During this time USTP's cadre of dedicated professionals continued to fulfill mission priorities, but the impact of lower staff levels was felt with reduced civil enforcement output beginning in FY 2014 and continuing in FY 2015. In FY 2015, the USTP took nearly 32,000 formal and informal civil enforcement actions (compared with more than 35,000 civil enforcement actions in FY 2014). The USTP made more than 2,100 criminal referrals to U.S. Attorneys and law enforcement during FY 2015. The Program participated in 96 appeals beyond the bankruptcy court, including nearly two dozen cases at the United States court of appeals level. Program staff reviewed approximately 110,000 trustees' final reports before funds were distributed to creditors. On-site audits and field reviews of 457 chapter 7, 12, and 13 trustee operations were scheduled to ensure



## United States Trustee Program

the trustees were compliant in their fiduciary responsibilities. The USTP filed 2,691 motions to convert or dismiss chapter 11 cases.

In FY 2015, the Program met three of four performance goals. The Program fell 205 cases short of its target of 600 successful discharge complaints. These complaints result in denial or revocation of a discharge of debt, constitute the most serious civil remedy available to the Program in its effort to prevent fraud and abuse in the bankruptcy system, and is taken to resolve issues such as hidden assets, unreported income, and exaggerated expenses. The USTP officially started tracking this measure in FY 2011, and adjusted the target upward in the FY 2013 President's Budget prior to the significant decrease in staffing. The declines in FY 2014 and FY 2015 are attributable to several factors, most notably fewer staff on-board, the loss of experienced staff trained to discover and investigate these type of actions, and to a lesser degree reduced bankruptcy filings. The Program is focusing its efforts in this core enforcement area and filling key positions that over time will reinforce its ability to find, investigate, and prosecute these complex Section 727 actions. For FY 2016 and 2017, the Section 727 success measure has been adjusted downward to reflect current USTP staffing levels and the continued decline in bankruptcy filings during this period as the Program rebuilds critical expertise.

Since FY 2011, the Program has also tracked the number of successful consumer protection actions. Since that time, with the Program's emphasis on addressing abusive creditor conduct and aggressively investigating attorneys and bankruptcy petition preparers who prey on debtors, the performance target for successful consumer protection actions has twice been increased. However, the reduction in Program on-board staff, and to a lesser degree the decrease in bankruptcy filings, has impacted the Program's ability to meet this performance measure. Thus, for FY 2017 the consumer protection performance measure has been adjusted to the historical FY 2012 level.

During FY 2015, the Program completed a thorough review of its performance measures. As a result, the USTP is adding two new performance measures, which combined with existing measures will provide specific outcomes and impacts of the Program's activities, and provide valuable insight into the Program's performance of its core mission. The first new measure is the litigation success rate, which measures the USTP's aim for excellence in litigation, including exercising sound judgment, diligence, and discretion to bring the strongest actions given limited Program resources. The success rate is calculated as the number of actions favorably resolved (granted or sustained) divided by the total number of actions decided (granted, sustained, overruled, or denied) in any given year. The initial litigation success performance target is 95 percent for FY 2017.

The second new measure is the efficiency rate for Trustee Final Reports (TFRs). The USTP approves and files TFRs that provide for distribution of chapter 7 estate funds to creditors in accordance with statutorily prescribed priorities. TFRs must be reviewed and approved by the USTP, and filed with the Bankruptcy Court, within 60 days of receipt. The initial performance target for FY 2017 is 95 percent of TFRs to be reviewed within 60 days of receipt.



## 2. Strategies to Accomplish Outcomes

The USTP mission is included in the DOJ Strategic Plan under Goal 2: Prevent Crime, Protect the Rights of the American people, and Enforce Federal Law, and Strategic Objective 2.6: Protect the federal fisc and defend the interests of the United States. The USTP achieves this objective through the following Program strategies.

### *a. Enforce compliance with federal bankruptcy laws and take civil actions against parties who abuse the law or seek to defraud the bankruptcy system.*

The USTP's anti-fraud and abuse efforts focus on wrong-doing both by debtors and by those who exploit debtors. The USTP protects consumer debtors from wrongdoing by attorneys, bankruptcy petition preparers, creditors, and others by seeking a variety of remedies, including disgorgement of fees, fines, and injunctive relief.

*Debtor Abuse.* The USTP combats debtor fraud and abuse primarily by seeking case dismissal if a debtor has an ability to repay debts and by seeking denial of discharge for the concealment of assets and other Bankruptcy Code violations. Civil enforcement actions include taking steps to dismiss abusive filings, deny discharges to ineligible or dishonest debtors, and limit improper refilings.

*Creditor Abuse.* Addressing violations of the Bankruptcy Code by creditors, including national mortgage servicers, remains a top Program priority. The Program takes action to ensure the accuracy of creditor claims, the protection of consumer personal information, and other compliance with the Bankruptcy Code and Rules. The USTP investigates and takes civil enforcement action in cases involving allegations that mortgage servicers file inaccurate claims that debtors owe more money than they actually owe, that a default has occurred when there has been no default, or that mortgage servicers have been adding additional and undisclosed charges that are not permitted under the terms of the loan contract.

### *b. Pursue violations of federal criminal laws pertaining to bankruptcy by identifying, evaluating, referring, and providing investigative and prosecutorial support of cases.*

The integrity of the bankruptcy system depends upon the honesty and truthfulness of all participants and deterring those who would abuse the system to defraud others. Integral to protecting the system is the USTP's statutory responsibility to refer potential criminal activity to the U.S. Attorney and to provide assistance to law enforcement when appropriate, including serving as Special Assistant U.S. Attorneys. In addition, Program staff dedicate significant time to assisting our law enforcement partners in the investigation and prosecution of bankruptcy fraud and related crimes. Referrals from the USTP cover a broad spectrum of criminal activity including bankruptcy fraud, mortgage rescue fraud, money laundering, investor fraud, identity theft, bank fraud, mail fraud, and wire fraud.



## United States Trustee Program

- c. Promote the effectiveness of the bankruptcy system by appointing and regulating private trustees who administer bankruptcy cases expeditiously and maximize the return to creditors.***

Pursuant to the Bankruptcy Code, the U.S. Trustee appoints and supervises private trustees to administer bankruptcy estates and distribute payments to creditors in cases filed under chapters 7, 12, and 13. Trustees have a fiduciary responsibility to the bankruptcy estate. It is a fundamental duty of the U.S. Trustee to regulate and monitor the activities of these private trustees to ensure the effective distribution of funds and compliance with standards put in place to safeguard those funds. The USTP selects and trains trustees and evaluates their overall performance and financial operations to ensure that cases are handled efficiently, effectively, and in accordance with applicable law and Program policy.

- d. Ensure financial accountability, compliance with the Bankruptcy Code, and prompt disposition of chapter 11 bankruptcy cases.***

The USTP monitors and takes enforcement actions in reorganization cases within its jurisdiction, ranging from small, single proprietorships to multi-billion dollar international conglomerates. Without substituting its judgment for that of parties with a monetary stake, the USTP focuses its attention on areas such as the following: filing motions and appointing trustees to replace management that engaged in egregious or improper activity; filing motions and appointing independent examiners to investigate the financial affairs of a debtor company; prescribing and monitoring financial reports to ensure that the debtor is not dissipating assets; filing enforcement motions to dismiss or convert to chapter 7 liquidation cases that are failing; reviewing applications to employ attorneys and other professionals to identify disqualifying conflicts of interest and objecting to employment if appropriate; appointing official committees of creditors to serve as fiduciaries acting on behalf of other creditors to negotiate a plan of reorganization; and reviewing and objecting to professional applications to ensure that fees do not exceed market rates and comply with other statutory requirements.



## United States Trustee Program

**VI. Program Increases by Item**

<b>Item Name:</b>	<b>Section 341 Meeting Room Security</b>
<b>Strategic Goal:</b>	2: Prevent Crime, Protect the Rights of the American people, and Enforce Federal Law
<b>Strategic Objective:</b>	2.6: Protect the federal fisc and defend the interests of the United States
<b>Budget Decision Unit(s):</b>	Administration of Cases
<b>Organizational Program:</b>	United States Trustee Program
<b>Program Increase:</b> Positions <u>0</u> Agt/Atty <u>0</u> FTE <u>0</u> Dollars <u>\$2,135,000</u>	

Description of Item

The USTP requests \$2,135,000 to provide security services at priority Section 341 meeting room sites with heightened safety concerns. Section 341 of the Bankruptcy Code requires the U.S. Trustee to convene a meeting of creditors in every bankruptcy case. At the Section 341 meeting, the debtor must appear and answer questions under oath from the U.S. Trustee, any trustee appointed in the case, creditors, and other parties in interest regarding the administration of the bankruptcy estate and the debtor's liabilities and financial condition. In addition, these meetings are open to the general public. The USTP acquires space for Section 341 meeting rooms in secured locations when feasible and justifiable. This is not always possible, however, due to a lack of available space, as well as the infrequency of meetings in remote locations. As a result, over 100 meeting rooms are currently situated in non-federal space with less than optimal security, including commercial space and low or no cost space in hotel conference rooms and local government facilities like public libraries. Because of their nature, Section 341 meetings may be contentious, and the increased safety and security risks warrant the adoption of appropriate security measures.

The USTP is using a multi-pronged strategy to minimize the overall cost of providing security services at Section 341 meeting room sites with heightened safety concerns. The USTP is working with other components of the Department of Justice to identify secure space already used by other Justice components that could also serve as a Section 341 meeting site. The USTP is also collaborating with the Administrative Office of the U.S. Courts, judges, and clerks of court to identify opportunities to share or acquire space that the courts do not use on a full-time basis. This space is typically located within secure federal facilities, with court security officers available.



## United States Trustee Program

Between FY 2015 and FY 2016, the USTP committed \$1 million of limited one-time carryover funding to initiate a pilot program to provide security at 14 locations. This enhancement secures the base resources needed to provide security services at priority Section 341 meeting room sites with heightened safety concerns.

### Justification

This enhancement is necessary to protect the safety and security of all parties attending the Section 341 meeting including debtors, creditors, case trustees, USTP personnel, and the general public at large.

### Impact on Performance

Security at Section 341 meeting room locations supports the Department of Justice FY 2017 funding priorities for enhancing public safety, and protecting vulnerable people. This enhancement will protect the safety and security of all parties attending Section 341 meetings, including members of the local community and the general public at large.

### **Funding**

#### Base Funding

<i>FY 2015 Enacted</i>				<i>FY 2016 President's Budget</i>				<i>FY 2017 Current Services</i>			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
0	0	0	20	0	0	0	20	0	0	0	20

#### Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Total Non-Personnel			2,135	0	0



## United States Trustee Program

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	0	20	20	0	0
Increases	0	0	0	0	2,135	2,135	0	0
Grand Total	0	0	0	0	2,155	2,155	0	0

Affected Crosscuts

None

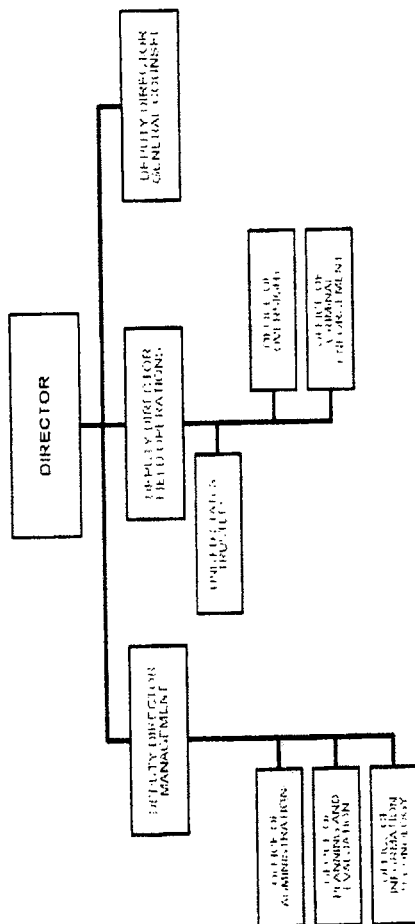
**VII. Program Offsets by Item**

The FY 2017 requested budget does not reflect program offsets.



## A: Organizational Chart

## EXECUTIVE OFFICE FOR UNITED STATES TRUSTEES



*For further information or to arrange a site visit, contact the author directly by e-mail at [john.fitzpatrick@unimelb.edu.au](mailto:john.fitzpatrick@unimelb.edu.au).*

11/26/12

*[Signature]*



B. Summary of Requirements

**Summary of Requirements**

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>			
<b>Total 2015 Enacted</b>	[1,314]	1,099	225,908
<b>2016 Enacted</b>	[1,314]	1,184	225,908
<b>Base Adjustments</b>			
Pay and Benefits	0	0	1,482
Domestic Rent and Facilities	0	0	192
<b>Total Base Adjustments</b>	0	0	1,674
<b>Total Technical and Base Adjustments</b>	0	0	1,674
<b>2017 Current Services</b>	[1,314]	1,184	227,582
<b>Program Changes</b>			
Increases:			
Section 341 Meeting Room Security	0	0	2,135
Subtotal, Increases	0	0	2,135
<b>Total Program Changes</b>	0	0	2,135
<b>2017 Total Request</b>	[1,314]	1,184	229,717
<b>2016 - 2017 Total Change</b>	[0]	0	3,809

1/ FY 2015 FTE is actual



# Summary of Requirements

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Administration of Cases	[1,314]	1,099	225,908	[1,314]	1,184	225,908	0	0	1,674	[1,314]	1,184	227,582
<b>Total Direct</b>	<b>[1,314]</b>	<b>1,099</b>	<b>225,908</b>	<b>[1,314]</b>	<b>1,184</b>	<b>225,908</b>	<b>0</b>	<b>0</b>	<b>1,674</b>	<b>[1,314]</b>	<b>1,184</b>	<b>227,582</b>
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			<b>225,908</b>			<b>225,908</b>			<b>1,674</b>			<b>227,582</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>1,099</b>			<b>1,184</b>			<b>0</b>			<b>1,184</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>1,099</b>			<b>1,184</b>			<b>0</b>			<b>1,184</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Administration of Cases	0	0	2,135	0	0	0	0	[1,314]	229,717
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>2,135</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>[1,314]</b>	<b>229,717</b>
Balance Rescission			0			0		0	0
<b>Total Direct with Rescission</b>			<b>2,135</b>			<b>0</b>			<b>229,717</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>1,184</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>1,184</b>	



FY 2017 Program Increases/Offsets by Decision Unit

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Administration of Cases			Total Increases		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.
Section 341 Meeting Room Security		0	0	0	2,135	0	0
Total Program Increases		0	0	0	2,135	0	0

Program Offsets	Location of Description by Program Activity	Administration of Cases			Total Offsets		
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.
No Program Offsets							
Total Program Offsets							



Resources by Department of Justice Strategic Goal and Objective

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law																		
2.6 Protect the federal fisc and defend the interests of the United States	1,099	225,908		1,184	225,908		1,184	227,582		0	2,135		0	0	0	1,184	229,717	
Subtotal, Goal 2	1,099	225,908		1,184	225,908		1,184	227,582		0	2,135		0	0	0	1,184	229,717	
TOTAL	1,099	225,908		1,184	225,908		1,184	227,582		0	2,135		0	0	0	1,184	229,717	



Exhibit E. Justifications for Technical and Base Adjustments



**Justifications for Technical and Base Adjustments**  
U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
<b>1 GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$94,000 will meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	94
<b>2 Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$98,000 is required to meet these commitments.	0	0	98
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	192
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	1,674



# Crosswalk of 2015 Availability

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount			Direct Pos.	Actual FTE	Amount
Administration of Cases	(1,314)	1,099	225,908	0	0	-82	8,191	665	(1,314)	1,099	234,682
<b>Total Direct</b>	<b>(1,314)</b>	<b>1,099</b>	<b>225,908</b>	<b>0</b>	<b>0</b>	<b>-82</b>	<b>8,191</b>	<b>665</b>	<b>(1,314)</b>	<b>1,099</b>	<b>234,682</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			225,908			-82	8,191	665			234,682
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		1,099			0					1,099	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total FTE</b>		<b>1,099</b>			<b>0</b>					<b>1,099</b>	

Reprogramming/Transfers: The USTP transferred \$82,000 to DOJ for enhanced cyber security services.

Carryover: The USTP plans to use these funds for upward adjustments to obligations and to address other program needs.

Recoveries/Refunds: The USTP plans to use these funds for upward adjustments to obligations and to address other program needs.



Crosswalk of 2016 Availability

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Administration of Cases	1,314	1,184	225,908	0	0	0	0	0	1,314	1,184	236,788
<b>Total Direct</b>	<b>1,314</b>	<b>1,184</b>	<b>225,908</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10,880</b>	<b>0</b>	<b>1,314</b>	<b>1,184</b>	<b>236,788</b>
Balance Rescission			0				0	0			0
Total Direct with Rescission							0	0			0
Reimbursable FTE			225,908			0	10,880	0			236,788
<b>Total Direct and Reimb. FTE</b>		<b>1,184</b>			<b>0</b>					<b>1,184</b>	
Other FTE											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>1,184</b>			<b>0</b>					<b>1,184</b>	

Carryover: The USTP plans to use these funds for upward adjustments to obligations and to address other program needs.



Summary of Reimbursable Resources

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Office of Attorney Recruitment/Management	0	0	9	0	0	7	0	0	7	0	0	0
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Administration of Cases	0	0	9	0	0	7	0	0	7	0	0	0
<b>Budgetary Resources</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>0</b>



I. Detail of Permanent Positions by Category

Detail of Permanent Positions by Category

U.S. Trustees  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2015 Enacted		ATBs	FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	
Security Specialists (080)	[2]	0	[2]	0	0	0	0	[2]
Personnel Management (0200-0260)	[10]	0	[10]	0	0	0	0	[10]
Clerical and Office Services (0300-0369)	[95]	0	[95]	0	0	0	0	[95]
Accounting and Budget (500-599)	[19]	0	[19]	0	0	0	0	[19]
Paralegals / Other Law (800-998)	[460]	0	[460]	0	0	0	0	[460]
Attorneys (905)	[436]	0	[436]	0	0	0	0	[436]
Mathematics and Statistics Group	[2]	0	[2]	0	0	0	0	[2]
Information Technology Mgmt (2210-2299)	[39]	0	[39]	0	0	0	0	[39]
Others	[2]	0	[2]	0	0	0	0	[2]
Contracting & Procurement	[4]	0	[4]	0	0	0	0	[4]
Bankruptcy Analyst	[245]	0	[245]	0	0	0	0	[245]
Total	[1,314]	0	[1,314]	0	0	0	0	[1,314]
Headquarters Washington D.C.	[125]	0	[125]	0	0	0	0	[125]
US Fields	[1,189]	0	[1,189]	0	0	0	0	[1,189]
Foreign Field	0	0	0	0	0	0	0	0
Total	[1,314]	0	[1,314]	0	0	0	0	[1,314]



Financial Analysis of Program Changes

U.S. Treasury  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Administration of Cases		Program Increases		Total Program Changes	
	Program Direct Pos.	Amount	Program Direct Pos.	Amount	Direct Pos.	Amount
No grades	0	0	0	0	0	0
Total Positions and Annual Amount	0	0	0	0	0	0
Lapses (1)	0	0	0	0	0	0
112 - Other Personal Compensation	0	0	0	0	0	0
Total FTEs and Personnel Compensation	0	0	0	0	0	0
25 3 - Other goods and services from Federal sources	0	2,135	0	0	0	2,135
Total Program Change Requests	0	2,135	0	0	0	2,135



## K. Summary of Requirements by Object Class

## Summary of Requirements by Object Class

U.S. Trustees

Salaries and Expenses

(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	1,099	114,375	1,184	126,447	1,184	126,971	0	524
11.3 - Other than full-time permanent	0	3,213	0	1,664	0	1,660	0	-4
11.5 - Other personnel compensation	0	1,083	0	921	0	921	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	3	0	0	0	0	0	0
<b>Total</b>	<b>1,099</b>	<b>118,674</b>	<b>1,184</b>	<b>129,032</b>	<b>1,184</b>	<b>129,552</b>	<b>0</b>	<b>520</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		37,990		41,481		41,831	0	350
13.0 - Benefits for former personnel		11		9		9	0	0
21.0 - Travel and transportation of persons		1,949		2,153		2,013	0	-140
22.0 - Transportation of things		506		475		475	0	0
23.1 - Rental payments to GSA		25,325		26,473		26,567	0	94
23.2 - Rental payments to others		448		452		452	0	0
23.3 - Communications, utilities, and miscellaneous charges		3,555		3,309		3,309	0	0
24.0 - Printing and reproduction		54		74		74	0	0
25.1 - Advisory and assistance services		7,271		3,761		1,727	0	-2,034
25.2 - Other services from non-federal sources		3,196		2,954		2,954	0	0
25.3 - Other goods and services from federal sources		18,041		16,687		18,924	0	2,237
25.4 - Operation and maintenance of facilities		1,012		1,896		1,896	0	0
25.6 - Medical care		181		160		160	0	0
25.7 - Operation and maintenance of equipment		363		429		429	0	0
26.0 - Supplies and materials		657		858		858	0	0
31.0 - Equipment		3,855		3,035		2,035	0	-1,000
32.0 - Land and structures		637		0		0	0	0
42.0 - Insurance claims and indemnities		77		1		1	0	0
<b>Total Obligations</b>		<b>223,802</b>		<b>233,239</b>		<b>233,266</b>	<b>0</b>	<b>27</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-8,191		-10,880		-3,549	0	7,331
Transfers/Reprogramming		82		0		0	0	0
Recoveries/Refunds		-665		0		0	0	0
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		10,880		3,549		0	0	-3,549
Unobligated End-of-Year, Expiring		0		0		0	0	0
<b>Total Direct Requirements</b>		<b>225,908</b>		<b>225,908</b>		<b>229,717</b>		<b>3,809</b>
<b>Reimbursable FTE</b>								
12.1 Department of Justice - Attorney Loan Recruitment (Reimbursable)	0	9	0	7	0	7	0	0

Exhibit K - Summary of Requirements by Object Class



**Congressional Submission**

**FOREIGN CLAIMS SETTLEMENT COMMISSION**

**U.S. Department of Justice**

**FY 2017 PERFORMANCE BUDGET**



## Table of Contents

	Page No.
<b>I. Overview .....</b>	1
<b>II. Summary of Program Changes .....</b>	3
<b>III. Appropriations Language and Analysis of Appropriations Language .....</b>	4
<b>IV. Program Activity Justification</b>	
A. Foreign Claims	
1. Program Description .....	5
2. Performance Tables .....	6
3. Performance, Resources, and Strategies .....	8
<b>V. Program Increases by Item .....</b>	NA
<b>VI. Program Offsets by Item .....</b>	NA
<b>VII. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	NA
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	NA
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	NA
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	NA
M. Senior Executive Service Reporting (applies to only to DEA and FBI)	NA



## **I. Overview for the Foreign Claims Settlement Commission**

### **1. Introduction**

The Foreign Claims Settlement Commission (FCSC) is a small, independent, quasi-judicial agency organized for administrative purposes within the Department of Justice that has a high profile and important mission in FY 2017: distribute to U.S. victims of international terrorism monies paid to the United States by foreign governments. Currently, the FCSC is adjudicating the claims of U.S. victims of Iraqi actions during the Saddam Hussein era; referred to the Commission by the Department of State by letter dated October 7, 2014 (Iraq has already paid to the United States approximately \$400 million to satisfy these claims). Further, the Commission is continuing its adjudication of claims of U.S. victims of Libyan terrorism under a third referral from the Department of State dated November 27, 2013 pursuant to the Libya Claims Settlement Agreement. Based on the projected number of claims in both the Libyan and Iraqi programs and the complexity of issues associated with these claims, adjudication will continue through FY 2017. In addition, depending on the movement of events internationally, other, similar programs can be anticipated.

The Commission consists of a Chairman and two part-time Commissioners, who are appointed by the President and confirmed by the Senate, as well as legal and non-legal secretariat staff. The Chairman and the part-time Commissioners receive compensation at the Executive Level V rate of pay for performance of official business of the Commission. The work of adjudicating claims and awarding compensation is necessarily labor-intensive, requiring legal and factual research on the part of Commission staff, and adjudicatory work by the members of the Commission. The majority of the Commission's budget is necessary for personnel costs. The bulk of the remainder is for fixed costs, including rent and guard service. While the operating expenses of the Commission are appropriated from taxpayer funds, in virtually all instances, the legislation authorizing the adjudication of claims has provided for deduction of 5% of the funds obtained from foreign governments in settlement of the claims adjudicated by the Commission. This amount is deposited to the credit of miscellaneous receipts in the United States Treasury to defray administrative expenses. The Commission understands that approximately \$20 million has been so deposited into the Treasury from the funds obtained under the Libya Claims Program alone.

To date, the Commission has administered and completed 48 international and war-related claims programs involving claims against 19 countries: Yugoslavia, Panama, Bulgaria, Hungary, Romania, Italy, the former Soviet Union, the former Czechoslovakia, Poland, Cuba, China, the former German Democratic Republic, Vietnam, Ethiopia, Egypt, Iran, Albania, the Federal Republic of Germany, Libya, and Iraq.

The Commission is prepared to provide any further information about the background of the Commission, its existing programs, and congressional interest in these programs.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>



## 2. Issues, Outcomes, and Strategies

In FY 2017, the Commission plans to continue its administration of the Libya Claims Program. This program resulted from the President's Executive Order 13477 dated October 31, 2008, implementing the U.S.-Libya Claims Settlement Agreement of August 14, 2008, as well as the Libyan Claims Resolution Act (LCRA), passed by Congress and signed into law on August 4, 2008. Pursuant to this Agreement and the LCRA, the government of Libya paid \$1.5 billion to the United States in order to provide immediate and fair compensation to U.S. nationals with terrorism-related claims against Libya. The Commission has thus far completed its adjudication of claims referred by the Department of State Legal Adviser's referral letters of December 11, 2008 and January 15, 2009 pursuant to 22 U.S.C. § 1623 (a)(1)(C) and continues to adjudicate claims under the State Department's letter of referral dated November 27, 2013.

In FY 2017, the Commission also plans to continue its administration of the Iraq Claims Program. On June 21, 2011, the Department of State issued a press release announcing a settlement with the Government of Iraq in the amount of \$400 million to provide compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War, and for U.S. servicemen who were injured in the 1987 attack on the USS Stark. The Commission has thus far completed its adjudication of claims referred by the Department of State Legal Adviser's referral letter of November 14, 2012 pursuant to 22 U.S.C. § 1623 (a)(1)(C) and has now begun its adjudication of claims under the State Department's letter of referral dated October 7, 2014.

Furthermore, the Commission will continue to have authority under the International Claims Settlement Act of 1949, as amended, and the 1995 United States-Albanian Claims Settlement Agreement, to make awards in any additional claims against Albania that are filed. In addition, when appropriate, the Commission will continue to reopen and reconsider claims it had previously denied, taking into account the modification of the Albanian Claims Settlement Agreement effected in 2006.

Additionally, the Commission will research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State's continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms-Burton Act"). The Commission continues to maintain and update a computerized database of some 13,000 records containing specific information on all of the claims adjudicated in its Cuban Claims Program. This database enables the Commission to respond more quickly and accurately to requests for information from the State Department and the general public.

Moreover, under the War Claims Act of 1948, as amended, the Commission will also continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.

In addition, the Commission will continue to furnish information contained in its records pertaining to the 48 completed international and war related claims programs it has conducted, as requested by claimants, their heirs, attorneys, researchers, and other members of the public. It will also provide to other U.S. agencies technical advice on their policy determinations, participate in preliminary planning and evaluation of pending claims legislation, and coordinate



with congressional committees considering legislation for adjudication of additional types of claims.

### **3. Challenges**

#### **External Challenges**

The Commission's external challenges include the necessity of being continuously prepared for a workload dictated almost exclusively by changing international events, current and future claims programs enacted by Congress or referred to the Commission by the Department of State, and by the number of claims filed. This may require expansion of its staffing to meet the requirements of new programs. Its external challenges also include the need to notify and assist U.S. nationals in a timely fashion with filing and documenting their claims: familiarize them with the claims process; and respond efficiently to all inquiries by the public, Congress, and other federal agencies about current and past programs.

#### **Internal Challenges**

The Commission's internal challenges include maintaining and focusing the skills, expertise, and experience of its staff to assist U.S. nationals with claims against foreign governments, as well as to provide technical assistance in this area to the Department of State and other federal agencies upon request. At the same time, the Commission must continue its claims records modernization effort by improving and updating the information in its databases and on its website. The Commission intends to also concentrate efforts on increasing its transparency, by increasing the availability of its decisions and records to the public, particularly through electronic media.

### **4. Performance Challenges**

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds to the Department's Strategic Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

## **II. Summary of Program Changes**

#### **No Program Changes**



### **III. Appropriations Language and Analysis of Appropriations Language**

#### **Appropriations Language**

##### **SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION**

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by section 3109 of title 5, United States Code. [\$2,374,000]  
\$2,409,000.

#### ***Analysis of Appropriations Language***

No substantive changes are proposed.



## IV. Program Activity Justification

### A. Foreign Claims

<b>Foreign Claims</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	11	6	\$2,326
2016 Enacted	11	9	\$2,374
Adjustments to Base and Technical Adjustments		1	\$35
2017 Current Services	11	10	\$2,409
2017 Request	11	10	\$2,409
<b>Total Change 2016-2017</b>		1	\$35

#### 1. Program Description

The Commission has a single Decision Unit, and its mission is to protect the rights of U.S. citizens abroad and to promote the international rule of law through adjudication of claims brought by United States citizens against foreign governments.

The Commission currently pursues the following organizational goals:

- Issue well-reasoned and timely decisions in all claims against foreign governments adjudicated by the Commission.
- Provide notice to U.S. citizens of opportunities to enforce their rights against foreign governments under the Commission's authority and provide timely guidance and assistance in pursuing their claims.
- Certify all awards to the Department of State in a timely and accurate fashion to ensure prompt payment within the statutory guidelines set forth in the Commission's authorizing statutes.
- Ensure that the decisions of the Commission are widely available and accessible to, *inter alia*, researchers, international legal scholars, and government officials.
- Ensure readiness to administer, upon enactment of authorizing legislation or referral to the Commission by the Secretary of State, future programs for claims against foreign governments; and to advise Congress and other agencies concerning policy determinations relating to the settlement of international claims as well as potential future claims programs.
- Upon request, assist the Department of State in negotiations for the settlement of claims against foreign governments.











### 3. Performance, Resources, and Strategies

The Commission is an independent agency. Its budget is fully integrated with its own priorities and corresponds best to the Department's Strategic Goal 2: Protect the Rights of the American People, and Enforce Federal Law.

#### a. Performance Plan and Report for Outcomes

The Commission's activities are not included in the Department of Justice's performance plans or reports. However, in addition to its principal function of adjudicating claims of United States nationals against foreign governments, the Commission provides continuing informational services to claimants (and, where applicable, their legal successors) with regard to the 48 international and war claims programs it has concluded. It also provides advice to other Federal agencies on their policy determinations, preliminary planning, and evaluation of proposed legislation intended to authorize adjudication of claims of new categories of claimants, and liaison with congressional committees considering such legislation.

#### b. Strategies to Accomplish Outcomes

In FY 2017, the Commission will continue its administration of the Libya Claims Program which resulted from the President's Executive Order 13477 which implements the U.S.-Libya Claims Settlement Agreement and the Libyan Claims Resolution Act (LCRA).

Additionally, the Commission will continue to adjudicate categories of claims referred to it by the Department of State within the scope of the Claims Settlement Agreement Between the Government of the United States of America and the Government of the Republic of Iraq, signed on September 2, 2010, including claims for compensation for American nationals who were prisoners of war, hostages, or human shields during the first Gulf War.

Under the International Claims Settlement Act of 1949, as amended, and the 1995 U.S.-Albanian Claims Settlement Agreement and the 2006 modification of that agreement, the Commission will continue to have authority to make awards in any additional claims against Albania that may be filed.

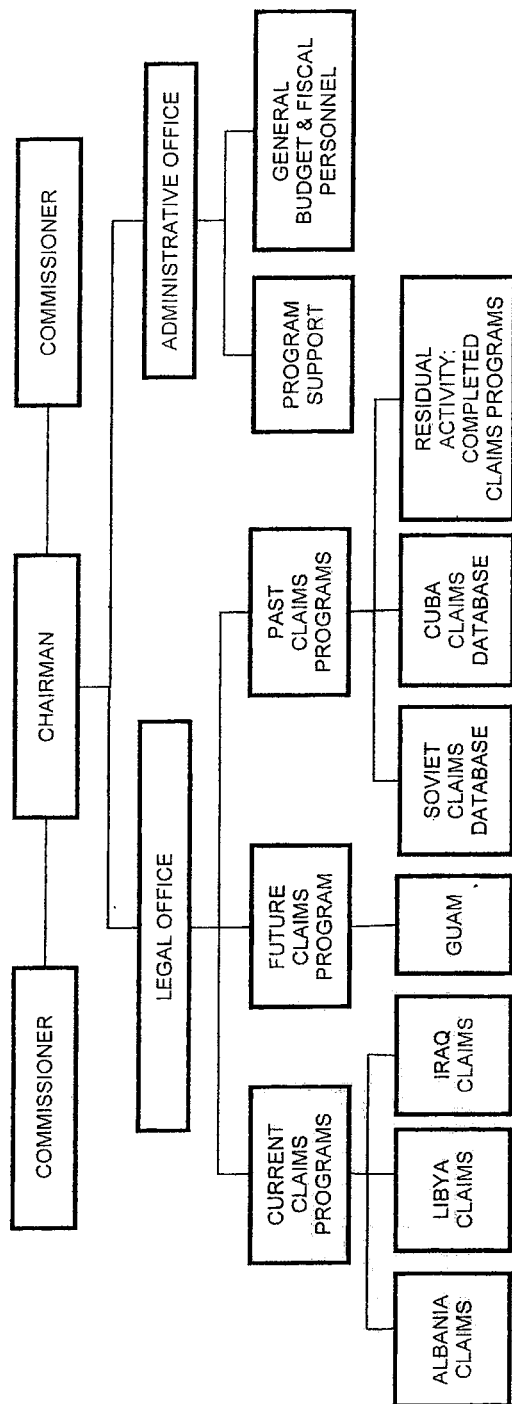
The Commission will also research and respond to requests for information concerning properties expropriated by the Castro regime in Cuba, in support of the Department of State's Continuing implementation of Title IV of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (the "Helms-Burton Act"). In addition, the Commission will continue to engage in preliminary planning for a possible future program relating to Guam. The Commission will also provide, upon request, technical assistance to the Department of State in conducting government-to-government claims settlement negotiations.

Under the War Claims Act of 1948, as amended, the Commission will continue to have authority to award compensation to any previously uncompensated American servicemen held as prisoners of war in Southeast Asia during the Vietnam conflict, or their survivors, for inadequate rations and inhumane treatment while in captivity.



# A: Organizational Chart

## FOREIGN CLAIMS SETTLEMENT COMMISSION



Office of the  
Director of the  
Foreign Claims Settlement Commission  
1000 17th Street, NW  
Washington, DC 20036-5001  
202-548-1749

**BRIAN  
SIMKIN**

Date: August 21, 2015

Approved by: Brian M. Simkin, CHIEF COUNSEL



**Summary of Requirements**  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	11	6	2,326
Total 2015 Enacted	11	6	2,326
2016 Enacted	11	9	2,374
Base Adjustments			
Pay and Benefits	0	1	16
Domestic Rent and Facilities	0	0	19
Total Base Adjustments	0	1	35
Total Technical and Base Adjustments	0	1	35
2017 Current Services	0	1	35
2017 Total Request	11	10	2,409
2016 - 2017 Total Change	11	10	2,409
	0	1	35

1/ FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est FTE	Amount	Direct Pos.	Est FTE	Amount	Direct Pos.	Est FTE	Amount
Foreign Claims	11	6	2,326	11	9	2,374	0	1	35	11	10	2,409
Total Direct	11	6	2,326	11	9	2,374	0	1	35	11	10	2,409
Balance Rescission			0						0			0
Total Direct with Rescission			0						0			0
Reimbursable FTE			2,326			2,374			35			2,409
Total Direct and Reimb. FTE		6			9			1			10	
Other FTE												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
Grand Total, FTE		6			9			1			10	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est FTE	Amount	Direct Pos.	Est FTE	Amount
Foreign Claims	0	0	0	0	0	0	11	10	2,409
Total Direct	0	0	0	0	0	0	11	10	2,409
Balance Rescission			0			0			0
Total Direct with Rescission			0			0			0
Reimbursable FTE		0			0				2,409
Total Direct and Reimb. FTE		0			0			10	
Other FTE									
LEAP		0			0			0	
Overtime		0			0			0	
Grand Total, FTE		0			0			10	



D. Res. 1 by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal and Objective**  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount	Direct & Reimb FTE	Direct Amount	Reimb Amount
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law	6	2,326		9	2,374		10	2,409		0	0	0	0	0	0	10	2,409	
2.6 Protect the federal fisc and defend the interests of the United States	6	2,326		9	2,374		10	2,409		0	0	0	0	0	0	10	2,409	
TOTAL	6	2,326		9	2,374		10	2,409		0	0	0	0	0	0	10	2,409	



**Justifications for Technical and Base Adjustments**  
**Foreign Claims Settlement Commission**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

819

		Direct Pos.	Estimate FTE	Amount
<b>Pay and Benefits</b>				
<b>1 2017 Pay Raise - 1.5%</b>	This request provides for a proposed 1.5 percent pay raise to be effective in January of 2017. The amount requested represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$15,000 for pay and \$4,000 for benefits).	0	3	19
<b>2 Annualization of 2016 Pay Raise</b>	This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The amount requested \$5,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$4,000 for pay and \$1,000 for benefits).	0	0	5
<b>3 Changes in Compensable Days</b>	The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$1,263,000 and applicable benefits \$284,000 by 262 compensable days.	0	3	-12
<b>4 Health Insurance</b>	Effective January 2017, the component's contribution to Federal employees' health insurance increases by 2.5 percent. Applied against the 2016 estimate of \$95,000, the additional amount required is \$2,000.	0	3	2
<b>5 Position/FTE Adjustment</b>	This adjustment provides the 1 FTE needed to bring FCSC closer to its full authorized position level.	0	1	3
<b>6 Retirement</b>	Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$2,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	2
	<b>Subtotal, Pay and Benefits</b>	0	1	16
<b>Domestic Rent and Facilities</b>				
<b>1 GSA Rent</b>	GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$19,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	19
	<b>Subtotal, Domestic Rent and Facilities</b>	0	3	19
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>				
		0	1	35



**Crosswalk of 2015 Availability**  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos	Actual FTE	Amount	Direct Pos	Actual FTE	Amount			Direct Pos	Actual FTE	Amount
Foreign Claims	11	6	2,326		0	0		0	11	6	2,326
<b>Total Direct</b>	<b>11</b>	<b>6</b>	<b>2,326</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>6</b>	<b>2,326</b>
Balance Rescission			0			0		0			0
<b>Total Direct with Rescission</b>			<b>0</b>			<b>0</b>		<b>0</b>			<b>0</b>
Reimbursable FTE		0	2,326		0	0		0		0	2,326
<b>Total Direct and Reimb. FTE</b>		<b>6</b>			<b>0</b>					<b>0</b>	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total FTE</b>		<b>6</b>			<b>0</b>					<b>6</b>	

Reprogramming/Transfers:

Carryover:

Recoveries/Refunds:



**Crosswalk of 2016 Availability**  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	FY 2016 Availability		
	Direct Pos	Est FTE	Amount	Direct Pos	Est. FTE	Amount			Direct Pos	Est. FTE	Amount
Foreign Claims	11	9	2,374	0	0	0	0	0	11	9	2,374
<b>Total Direct</b>	<b>11</b>	<b>9</b>	<b>2,374</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>9</b>	<b>2,374</b>
Balance Rescission				0	0	0	0	0			0
Total Direct with Rescission											
Reimbursable FTE			2,374			0	0	0			2,374
Total Direct and Reimb FTE		9			0					0	
Other FTE											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total FTE</b>		<b>9</b>			<b>0</b>					<b>9</b>	

Reprogramming/Transfers:

Carryover:

Recoveries/Refunds:



I. Del: Permanent Positions by Category

Detail of Permanent Positions by Category  
Foreign Claims Settlement Commission  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request				
	Direct Pos	Reimb. Pos	Direct Pos	Reimb. Pos	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb Pos.
Clerical and Office Services (0300-0399)	5	0	4	0	0	0	0	4	0
Accounting and Budget (500-599)	1	0	1	0	0	0	0	1	0
Paralegals / Other Law (900-998)	1	0	1	0	0	0	0	1	0
Attorneys (905)	4	0	5	0	0	0	0	5	0
Total	11	0	11	0	0	0	0	11	0
Headquarters Washington D.C.	11	0	11	0	0	0	0	11	0
US Fields	0	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0	0
Total	11	0	11	0	0	0	0	11	0



## K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
**Foreign Claims Settlement Commission**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	6	752	8	1,155	9	1,164	1	9
11.3 - Other than full-time permanent	0	49	1	108	1	108	0	0
11.5 - Other personnel compensation	0	8	0	0	0	0	0	0
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>6</b>	<b>809</b>	<b>9</b>	<b>1,263</b>	<b>10</b>	<b>1,272</b>	<b>1</b>	<b>9</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		231		381		388		7
21.0 - Travel and transportation of persons		26		12		12		0
22.0 - Transportation of things		14		15		15		0
23.1 - Rental payments to GSA		330		431		450		19
23.2 - Rental payments to others		15		0		0		0
23.3 - Communications, utilities, and miscellaneous charges		13		13		13		0
24.0 - Printing and reproduction		105		5		5		0
25.1 - Advisory and assistance services		43		0		0		0
25.2 - Other services from non-federal sources		51		175		175		0
25.3 - Other goods and services from federal sources		336		64		64		0
25.6 - Medical care		1		1		1		0
25.7 - Operation and maintenance of equipment		2		0		0		0
26.0 - Supplies and materials		17		12		12		0
31.0 - Equipment		0		2		2		0
<b>Total Obligations</b>		<b>1,993</b>		<b>2,374</b>		<b>2,409</b>	<b>0</b>	<b>35</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		0		0		0		0
Transfers/Reprogramming		0		0		0		0
Recoveries/Refunds		0		0		0		0
Balance Rescission		0		0		0		0
Unobligated End-of-Year, Available		0		0		0		0
Unobligated End-of-Year, Expiring		333		0		0		0
<b>Total Direct Requirements</b>		<b>2,326</b>		<b>2,374</b>		<b>2,409</b>		<b>35</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0		0	0



**United States Marshals Service  
FY 2017 Performance Budget  
President's Budget**

**Salaries & Expenses and Construction Appropriations**



**February 2016**



## Table of Contents

<b>I.</b>	<b>Overview for the United States Marshals Service (USMS)</b> .....	<b>5</b>
<b>II.</b>	<b>Summary of Program Changes</b> .....	<b>18</b>
<b>III.</b>	<b>Appropriations Language and Analysis of Appropriations Language</b> .....	<b>19</b>
<b>IV.</b>	<b>Program Activity Justification</b> .....	<b>20</b>
	<b>A. Judicial and Courthouse Security</b> .....	<b>20</b>
	1. Program Description .....	21
	2. Performance and Resource Tables.....	23
	3. Performance, Resources, and Strategies .....	27
	<b>B. Fugitive Apprehension</b> .....	<b>30</b>
	1. Program Description .....	30
	2. Performance and Resource Tables.....	35
	3. Performance, Resources, and Strategies .....	43
	<b>C. Prisoner Security and Transportation</b> .....	<b>47</b>
	1. Program Description .....	47
	2. Performance and Resource Tables.....	50
	3. Performance, Resources, and Strategies .....	54
	<b>D. Protection of Witnesses</b> .....	<b>56</b>
	1. Program Description .....	56
	2. Performance and Resource Tables.....	57
	3. Performance, Resources, and Strategies .....	60
	<b>E. Tactical Operations</b> .....	<b>61</b>
	1. Program Description .....	61
	2. Performance and Resource Tables.....	63
	3. Performance, Resources, and Strategies .....	66
<b>V.</b>	<b>Program Increases by Item</b> .....	<b>67</b>
	<b>A. Deputy U.S. Marshals Life and Safety</b> .....	<b>67</b>
	<b>B. Violent Fugitive Apprehension</b> .....	<b>77</b>
	<b>C. Enforcement Operations</b> .....	<b>81</b>
	<b>D. Information Technology Infrastructure</b> .....	<b>87</b>
	<b>E. Risk Management</b> .....	<b>92</b>
<b>VI.</b>	<b>Program Decrease by Item</b> .....	<b>98</b>
	<b>A. Construction</b> .....	<b>98</b>



**VII. Exhibits**

- A. Organizational Chart
- B. Summary of Requirements
- C. FY 2017 Program Increases/Offsets by Decision Unit
- D. Resources by DOJ Strategic Goal/Objective
- E. Justification for Technical and Base Adjustments
- F. Crosswalk of 2015 Availability
- G. Crosswalk of 2016 Availability
- H. Summary of Reimbursable Resources
- I. Detail of Permanent Positions by Category
- J. Financial Analysis of Program Changes
- K. Summary of Requirements by Object Class
- L. Status of Congressionally Requested Studies, Reports, and Evaluations



## 1. Overview for the United States Marshals Service (USMS)

### A. Introduction

The USMS requests \$1,275,156,000 for the Salaries and Expenses (S&E) appropriation to fund 5,620 positions, 4,192 Deputy U.S. Marshals (DUSMs), 22 Attorneys, and 4,938 full time equivalent (FTE) excluding reimbursable FTE. This request is an increase of 66 positions, 58 DUSMs, and \$44,575,000 from the FY 2016 Enacted Budget.

The USMS also requests \$10,000,000 for the Construction appropriation, a decrease of \$5,000,000 from FY 2016 Enacted Budget.

	Salaries & Expenses			Construction	Total
	Pos	FTE	Amt (\$000)	Amt (\$000)	Amt (\$000)
FY 2015 Enacted	5,554	4,876	1,195,000	9,800	1,204,800
FY 2016 Enacted	5,554	4,876	1,230,581	15,000	1,245,581
FY 2017 Request	5,620	4,938	1,275,156	10,000	1,285,156

The USMS request includes 102 positions and approximately \$124,050,000 for information technology (IT) program. The USMS supports major IT areas such as tactical radio infrastructure, IT helpdesk support, wide and local area networking, voice communications support for voice and video teleconferencing, Unified Financial Management System (UFMS) program implementation, detainee IT system management, secured systems for protective operations and other IT-related services performing security and associated functions supporting law enforcement missions and administrative operations. The IT request includes a program increase of \$25,122,000 to modernize, replace and consolidate outdated USMS investigative, judicial security, and prisoner management information systems. The USMS legacy systems are unable to keep up with the current operational requirements for stability, security, and scalability. The new system will result in operational efficiencies, new mobile capabilities, and improved information sharing.

Electronic copies of the Department of Justice's (DOJ) Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

### B. Organizational History

The Judiciary Act of 1789 established the original 13 federal judicial districts and called for appointment of a Marshal for each district. The Senate confirmed President Washington's nomination of the first Marshals on September 26, 1789.

The Attorney General began supervising the Marshals in 1861. The DOJ was created in 1870 and the Marshals have been under its purview since that time. In 1956, the Deputy Attorney General established the Executive Office for United States Marshals as the first organization to supervise the Marshals nationwide. On May 12, 1969, DOJ Order 415-69 established the U.S. Marshals Service, with its Director appointed by the Attorney General. On November 18, 1988, the USMS was officially



established as a bureau within the Department under the authority and direction of the Attorney General with its Director appointed by the President..

### **U.S. Marshals Perform a Wide Range of Duties**

The USMS is the nation's oldest and most versatile federal law enforcement agency. Since 1789, federal marshals have served the nation through a variety of vital law enforcement activities. Ninety-four U.S. Marshals, appointed by the President or the U.S. Attorney General, direct the activities of 94 district offices and personnel stationed at more than 400 locations throughout the 50 states, Guam, Northern Mariana Islands, Puerto Rico and the Virgin Islands. Each district, and the District of Columbia Superior Court, is headed by a U.S. Marshal. The Marshals Service's headquarters is located in the Washington, D.C. area.

The USMS occupies a uniquely central position in the federal justice system by being involved in virtually every federal law enforcement initiative. Approximately 5,000 Deputy Marshals and career employees perform the following nationwide, day-to-day missions.

The USMS ensures the functioning of the federal judicial process by:

- protecting members of the judicial family (judges, attorneys, witnesses, and jurors);
- providing physical security in courthouses;
- safeguarding endangered government witnesses and their families;
- transporting and producing prisoners for court proceedings;
- executing court orders and arrest warrants;
- apprehending fugitives; and,
- seizing assets gained by illegal means and providing for the custody, management and disposal of forfeited assets.

All USMS duties and responsibilities emanate from this core mission.



## Judicial and Courthouse Security

Deputy U.S. Marshals can be found:

- in court with defendants in custody;
- protecting judges, prosecutors and witnesses;
- conducting threat analyses and investigations;
- conducting courtroom and courthouse security;
- planning courthouse facility renovations;
- managing courthouse security systems; and
- conducting courthouse and residential security surveys.



## Fugitive Apprehension

Deputy U.S. Marshals can be found:

- conducting domestic and international fugitive investigations;
- working closely on fugitive task forces and special cases with local, state, federal, and international law enforcement agencies;
- planning and implementing extraditions and deportations of fugitives;
- conducting financial and technical surveillance on specific fugitive investigations; and
- serving court papers, which is also known as service of process.





## Prisoner Security and Transportation

Deputy U.S. Marshals can be found:

- fingerprinting all defendants in the federal court system;
- securing prisoners and defendants in custody in the cellblock;
- transporting prisoners and defendants in custody between the jail and courthouse, between federal judicial districts and states;
- receiving prisoners from other federal law enforcement agencies;
- providing prisoner housing and other services related to federal detainees; and
- conducting jail inspections.



## Protection of Witnesses

Deputy U.S. Marshals can be found:

- protecting government witnesses;
- producing protected witnesses for court proceedings, and
- re-documenting and relocating protected witnesses.



## Asset Forfeiture

Deputy U.S. Marshals can be found:

- seizing, managing and disposing of forfeited assets.





## Operations Support

Deputy Marshals can be found:

- performing security, rescue, and recovery activities for natural disasters and civil disturbances;
- planning and implementing emergency operations including Continuity of Government activities;
- performing audits and inspections of U.S. Marshals operations;
- providing missile escort services;
- providing protection for the Strategic National Stockpile; and
- protecting Government Officials.



The role of the U.S. Marshals has profoundly impacted the history of the United States since the time when America was expanding across the continent into the western territories. With changes in prosecutorial emphasis, the mission of the USMS has transitioned as well. In more recent history, law enforcement priorities have shifted with changing social mandates.

Examples include:

- In the 1960s, DUSMs provided security and escorted Ruby Bridges and James Meredith to school following federal court orders requiring segregated Southern schools and colleges to integrate.
- In 1973, the Drug Enforcement Administration (DEA) was created, resulting in a greater focus on drug-related arrests. The USMS immediately faced rapidly increasing numbers of drug-related detainees, protected witnesses, and fugitives.
- The Presidential Threat Protection Act of 2000 (Public Law (P.L.) 106-544) directed the USMS to provide assistance to state and local law enforcement agencies in the location and apprehension of their most violent fugitives. As a result, the USMS increased the size and effectiveness of its regional and district-based fugitive apprehension task forces, thus providing a critical “force multiplier” effect that aids in the reduction of violent crime across the nation.
- Expansion of illegal immigration enforcement activities, including the implementation of Operation Streamline in 2005, increased federal prosecutions of immigration offenders and



resulted in a significant increase in the USMS' prisoner and fugitive workload along the Southwest Border.

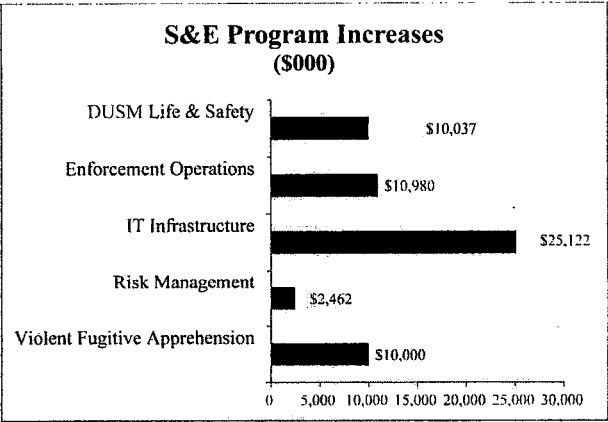
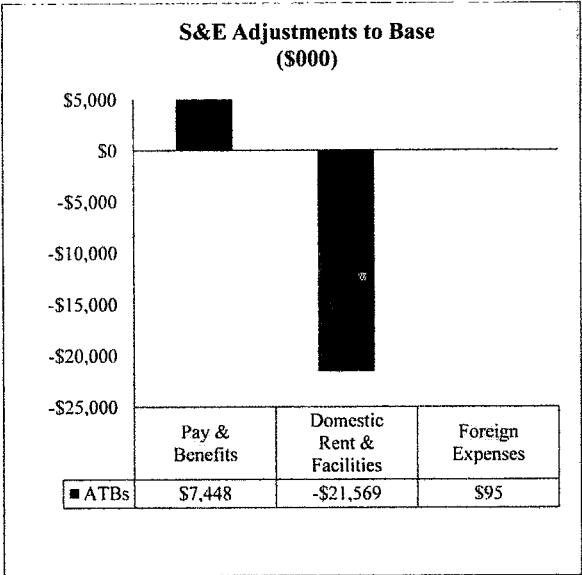
- The Adam Walsh Child Protection and Safety Act of 2006 (AWA) (P.L. 109-248) strengthened federal penalties by making the failure to register (FTR) as a sex offender a federal offense. This Act directs the USMS to "assist jurisdictions in locating and apprehending sex offenders who violate sex offender registry requirements." In response, the USMS established the Sex Offender Investigative Branch (SOIB) and opened the National Sex Offender Targeting Center (NSOTC) to carry out its mission to protect the public by bringing non-compliant sex offenders to justice and targeting offenders who pose the most immediate danger to the public in general and to child victims in particular.
- The President signed the Child Protection Act (P.L. 112-206) into law on December 7, 2012. This law provides additional administrative authorities to prosecutors and law enforcement agencies to further combat sex crimes involving children, including administrative subpoena authority, to the USMS Director for cases involving unregistered sex offenders.
- On May 29, 2015, President Obama signed the Justice for Victims of Trafficking Act (P.L. 114-22) into law. Section 605 of this law clarifies the USMS' authority to assist state, local, and other federal law enforcement agencies, upon request, in locating and recovering missing children. Previously, the USMS was only authorized to assist with missing child cases in which a warrant was already in place for the suspected abductor/companion; this new authority eliminates the need for a warrant, allowing the USMS to immediately support missing child cases.

With more resources dedicated to apprehending and prosecuting suspected terrorists, the USMS constantly assesses and responds to the increasing demands for high-level security required for many violent criminal and terrorist-related court proceedings.

### **C. USMS Budget**

The USMS' total request of \$1,285,156,000 consists of \$1,275,156,000 for the S&E appropriation and \$10,000,000 for the Construction appropriation. The S&E request includes program increases of \$58,601,000 for S&E and a program decrease of \$5,000,000 for Construction. The requested funding provides the necessary resources for the USMS to maintain and enhance its core functions and increase priority areas. Program increases for FY 2017 include the following: enhancing public and officer safety by updating mission critical equipment and expanding task force operations; protecting internal information technology systems from cyber threats by establishing a strong IT network; and ensuring accountability and integrity of USMS' programs by expanding the USMS' Office of Professional Responsibility. The charts below exhibit the cost distribution of base adjustments and program increases.





The total S&E adjustments-to-base (ATB) for FY 2017 is a reduction of \$14,026,000. This includes the non-recurrence of one-time funding provided in the FY 2016 Enacted Budget for the USMS' Headquarters move to a new location. The negative ATB, combined with the program changes, will increase the USMS' budget by \$44,575,000 over the FY 2016 Enacted level.

The Construction request includes \$5,000,000 in program decreases.



The USMS also receives reimbursable and other indirect resources from a variety of sources. Some of the larger sources include:

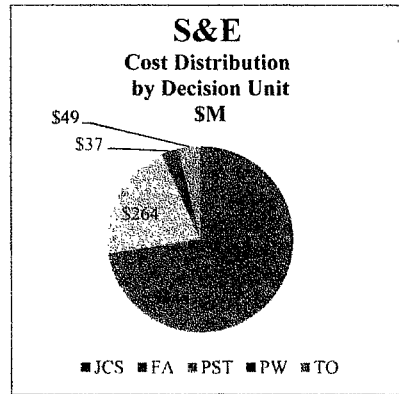
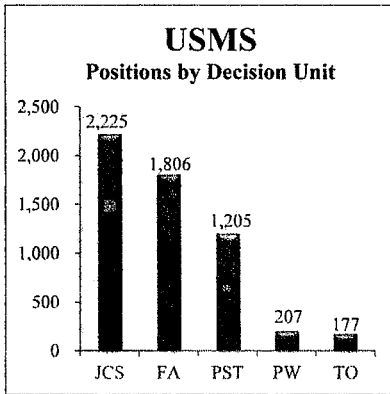
- The Administrative Office of the United States Courts (AOUSC) provides funding for administering the Judicial Facility Security Program;
- The Assets Forfeiture Fund (AFF) provides funding for managing and disposing seized assets;
- The Fees and Expenses of Witnesses (FEW) appropriation provides funding for securing and relocating protected witnesses; and,
- The Organized Crime Drug Enforcement Task Force (OCDETF) provides funding for apprehending major drug case fugitives.

The USMS S&E budget is divided into five decision units. These decision units contain the personnel and funds associated with the following missions:

- **Judicial and Courthouse Security (JCS)** – ensures a safe and secure environment for all who participate in federal judicial proceedings. Accomplished by anticipating and deterring threats to the judiciary, maintaining the ability to deploy protective measures at any time, and implementing the necessary security measures for all federal court facilities;
- **Fugitive Apprehension (FA)** – enhances the safety and security of our communities nationwide by locating and apprehending federal fugitives, egregious state or local fugitives and non-compliant sex offenders. Accomplished by creating and maintaining cooperative working relationships with federal, state, local, and foreign law enforcement agencies; developing national expertise in sophisticated technical operations; conducting psychological assessments of sex offenders; and collecting and sharing criminal intelligence. The decision unit includes the management and disposal of all DOJ's seized and forfeited assets;
- **Prisoner Security and Transportation (PST)** – ensures the custody of all federal prisoners is safe and humane from the time of arrest until the prisoner is acquitted, arrives at a designated Federal Bureau of Prisons facility to serve a sentence, or is otherwise ordered released from U.S. Marshal's custody. This includes providing housing, medical care, and transportation throughout the United States and its territories; producing prisoners for all court-ordered appearances; and protecting their civil rights throughout the judicial process;
- **Protection of Witnesses (PW)** – provides for the security, health, and safety of government witnesses and their immediate dependents whose lives are in danger as a result of their testimony against drug traffickers, terrorists, organized crime members, and other major criminals; and
- **Tactical Operations (TO)** – ensures that the USMS is able to respond immediately to any situation involving high-risk/sensitive law enforcement activities, national emergencies, civil disorders, or natural disasters. Accomplished by maintaining a specially trained and equipped tactical unit deployable at any time; providing explosive detection canines; operating a 24-hour Emergency Operations Center; and ensuring that Incident Management Teams and Mobile Command Centers are always available.



The charts below represent the position and cost distribution by decision unit for FY 2017.



#### **D. Strategic Goals**

The USMS mission supports all three goals within the DOJ Strategic Plan.

##### **Goal I: Prevent Terrorism and Promote the Nation's Security Consistent with the Rule of Law**

**Objective 1.1** Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement to achieve a coordinated response to terrorist threats

The USMS directly contributes to preventing, disrupting and defeating terrorist operations by conducting threat assessments and investigating incoming threats or inappropriate communications made against members of the judicial family. DUSMs are assigned to the Federal Bureau of Investigation's (FBI) Joint Terrorism Task Forces (JTTF) to work terrorism cases and share information that may be critical to protect the federal judiciary.

##### **Goal II: Prevent Crime, Protect the Rights of the American People and Enforce Federal Law**

**Objective 2.2** Prevent and intervene in crimes against vulnerable populations; uphold the rights of, and improve services to, America's crime victims

The USMS is the lead law enforcement agency responsible for investigating sex offender registration violations. The USMS has three distinct missions pursuant to the Adam Walsh Child Protection and Safety Act: (1) assisting state, local, tribal, and territorial authorities in the location and apprehension of non-compliant sex offenders; (2) investigating violations of 18 USC § 2250 or failure to register as a



sex offender, and related offenses; and (3) assisting in the identification and location of sex offenders relocated as a result of a major disaster.

***Performance Measure:** Opened investigations concerning non-compliant sex offenders*

**Goal III: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels**

**Objective 3.1** Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs

The USMS serves as the primary custodian for the DOJ Asset Forfeiture Program (AFP), whose mission is to support the use of asset forfeiture consistently and strategically to disrupt and dismantle criminal enterprises, deprive wrongdoers of the profits and instrumentalities of criminal activity, deter crime, and restore property to victims of crime while protecting individual rights. The USMS manages and disposes of assets seized and forfeited by participating federal law enforcement agencies (including the DEA, FBI, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Food and Drug Administration (FDA), Department of State-Diplomatic Security Service (DOS-DSS), Department of Defense (DOD) Criminal Investigation Service, and U.S. Postal Inspection Service) and U.S. Attorneys nationwide.

***Performance Measure:** Percent asset value returned to the fund*

**Objective 3.2** Protect judges, witnesses, and other participants in federal proceedings by anticipating, deterring, and investigating threats of violence

The USMS maintains the integrity of the federal judicial system by: 1) ensuring that U.S. Courthouses, federal buildings, and leased facilities occupied by the federal judiciary and the USMS are secure and safe from intrusion by individuals and technological devices designed to disrupt the judicial process; 2) guaranteeing that federal judges, attorneys, defendants, witnesses, jurors, and others can participate in uninterrupted court proceedings; 3) assessing inappropriate communications and providing protective details to federal judges or other members of the judicial system; 4) maintaining the custody, protection, and security of prisoners and the safety of material witnesses for appearance in court proceedings; and 5) limiting opportunities for criminals to tamper with evidence or use intimidation, extortion, or bribery to corrupt judicial proceedings.

***Performance Measure:** Assaults against protected court members*

**Objective 3.3** Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates

The USMS is responsible for the national operational oversight of all detention management matters pertaining to individuals remanded to the custody of the Attorney General. The USMS ensures the secure care and custody of these individuals through several processes to include sustenance, secure



lodging and transportation, evaluating conditions of confinement, providing medical care deemed necessary, and protecting their civil rights through the judicial process.

***Performance Measure: Average Detention Cost***

**Objective 3.5** Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement

The USMS is authorized to investigate domestic and international fugitive matters to include fugitive extraditions both within and outside the United States, as directed by the Attorney General. In addition, the USMS provides assistance and expertise to other federal, state, and local law enforcement agencies in support of fugitive investigations. The USMS is also responsible for the majority of OCDETF federal fugitive investigations.

***Performance Measure: Number and Percent USMS federal fugitives apprehended or cleared***

**E. Environmental Sustainability**

The USMS continues to develop and implement environmental sustainability at headquarters and in the field. During the past three fiscal years, most Greenhouse Gas (GHG) emissions have steadily declined compared to the 2011 baseline. The President signed Executive Order 13693, “Planning for Federal Sustainability in the Next Decade,” on March 19, 2015 revising sustainability goals for federal agencies. The Council on Environmental Quality is currently working on agency specific goals. Based on the GHG reductions, which the USMS has achieved to date, it is anticipated the USMS will be able to meet future targets.

In the last quarter of FY 2016, the USMS will relocate most of its headquarters’ operations resulting in a reduction of 53,000 square feet from the 2013 level. As part of the move, the USMS will replace older computers, copiers, and printers with newer models that use less energy and reduce the number of copiers and printers. Agency-wide, the USMS continues to replace older model vehicles with newer, more fuel-efficient and flexible fuel vehicles as funding is available while still meeting the mission of the USMS. In addition, the USMS is developing a “Green Team” to promote innovative ideas in sustainability.

The USMS currently has two environmental management systems (EMS) in place to reduce environmental impact and increase operating efficiencies of both its fleet and the Justice Prisoner and Alien Transportation System. Both EMS will be updated in FY 2016 following the updated release of the International Organization for Standardization’s 14000 environmental management standard.

**F. Challenges**

The USMS continues to analyze cost savings measures for economies of scale; be transparent in communications with both the Office of Management and Budget (OMB) and the Department; and pursue resources to accomplish the USMS’ core mission, operate programs, improve detention management, ensure officer safety, and provide the highest possible security for the federal judicial process.



**Objective 2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to, America's crime victims:**

The Adam Walsh Child Protection and Safety Act (AWA) of 2006 designated the USMS as the lead law enforcement agency to apprehend non-compliant sex offenders. There are approximately 819,000 registered sex offenders nationwide, of which as many as 100,000 are estimated to be non-compliant with registration requirements. In response, the USMS has taken an aggressive approach toward protecting society from these violent offenders and child predators. While the USMS vigorously pursues AWA violators, these cases are becoming more complex requiring additional staff and resources to handle the increasingly multifaceted caseload involving non-compliant sex offenders.

**Objective 3.2 Protect judges, witnesses, and other participants in federal proceedings by anticipating, deterring, and investigating threats of violence:**

The USMS must meet the challenges associated with an ever-expanding social media cyber threat and rapid technological enhancements. This includes having the very best intelligence, behavioral, and threat analysis; risk assessment methodologies; training of law enforcement and administrative personnel; maximizing workforce utilization; and ensuring accountability and integrity of USMS programs, personnel, and financial activities through compliance review.

The USMS operational and technology infrastructure is stretched beyond its physical capacity. Some courthouse cellblocks and holding cells do not meet current security and safety standards; protective gear, surveillance equipment, and vehicles are being used beyond their useful life cycles; and information technology infrastructure and communications have not kept up with technological advances.

The risk of continued employee misconduct, without proactive mitigation efforts, harms the public, the reputation of the USMS and the Department of Justice. Use-of-force incidents and firearm discharges involving task force officers need to be timely investigated. By increasing the review cycle and instituting follow-up reviews, the compliance review program would be more effective in mitigating USMS-wide risks, identifying and remediating fraud, waste, and abuse, and continuing to assist in attaining unqualified audit opinions on financial audits.

**Objective 3.3 Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates:**

The USMS detention resources are directly impacted by law enforcement and prosecutorial priorities and larger legislative reforms such as immigration reform, Southwest Border initiatives, and changes to sentencing guidelines. To meet these challenges, the USMS continues to reform business practices to optimize national detention operations. This will include robust interagency and non-governmental collaboration efforts to develop innovative solutions to effectively forecast and manage prisoner processing, housing, transportation, and medical care. In streamlining detention operations and providing for monitoring and performance based reporting, the USMS will need to develop a comprehensive IT environment that will modernize technology infrastructure, allow for enhanced data sharing and facilitate greater efficiencies across the agency.



**Objective 3.5 Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement:**

DUSMs are on the front lines every day, substantially reducing violent crime and making local communities safer, consistent with the tenets of the “Smart on Crime” initiative. However, as society and technology evolve, even “routine” interactions with the criminal element become inherently dangerous. The USMS must continue to mitigate risk to its personnel and law enforcement partners by conducting a review of existing policies, procedures, equipment, and training and subsequently implement a clear and consistent standardized approach to apprehension in all types of scenarios, within the United States and overseas. Therefore, it is critical for the USMS to have adequate personnel and enhance enforcement operations to accomplish the increasing demand to arrest the most violent offenders and dangerous fugitives safely and efficiently.



## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>Deputy U.S. Marshal Life and Safety</b>	For the cyclical replacement of body armor; radios; vehicles; surveillance equipment; and Special Operations Group (SOG) recertification and equipment. This funding would enable the USMS to replace mission critical equipment and maintain required tactical skills on a regular annual basis.	0	0	\$10,037	67
<b>Violent Fugitive Apprehension</b>	Funds are requested to backfill existing unfunded Deputy U.S. Marshals positions to focus on violent fugitive apprehension. By increasing the number of DUSMs in the field, the USMS will reduce the threat violent offenders pose to local communities.	0	0	\$10,000	77
<b>Enforcement Operations</b>	For the establishment of one new Regional Fugitive Task Force (RFTF) and enhancing current RFTFs.	60	30	\$10,980	81
<b>Information Technology Infrastructure</b>	For the replacement and modernization of outdated investigative, judicial security, and prisoner information management systems.	0	0	\$25,122	87
<b>Risk Management</b>	For new staff to address Office of Inspector General audit recommendations, including expansion for Internal Affairs and Compliance Review. Workloads per inspector are currently above the industry standard.	6	3	\$2,462	92
<b>Construction</b>	Reduced funding non-recurs the FY 2016 program increase.	0	0	-\$5,000	98



### III. Appropriations Language and Analysis of Appropriations Language

#### United States Marshals Service

##### Salaries and Expenses

For necessary expenses of the United States Marshals Service, [\$1,230,581,000]\$1,275,156,000 of which not to exceed \$6,000 shall be available for official reception and representation expenses, and not to exceed \$15,000,000 shall remain available until expended.

##### Construction

For construction in space controlled, occupied or utilized by the United States Marshals Service for prisoner holding and related support, [\$15,000,000]\$10,000,000, to remain available until expended.

##### Analysis of Appropriation Language

**S&E:** No substantive changes proposed.

**Construction:** For clarification purposes, the support costs related to the Construction Appropriation shall include administrative costs that are necessary to efficiently and effectively manage the corresponding workload associated in executing these construction projects.



#### IV. Program Activity Justification

##### A. Judicial and Courthouse Security

<b>Judicial and Courthouse Security</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	2,222	1,880	\$461,795
2016 Enacted	2,222	1,880	\$472,738
Adjustments to Base and Technical Adjustments	0	0	-\$5,368
2017 Current Services	2,222	1,880	\$467,370
2017 Program Increases	3	1	\$13,014
2017 Program Offsets	0	0	\$0
2017 Request	2,225	1,881	\$480,384
<b>Total Change 2016-2017</b>	<b>3</b>	<b>1</b>	<b>\$7,646</b>

<b>Construction</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	0	0	\$9,800
2016 Enacted	0	0	\$15,000
Adjustments to Base and Technical Adjustments	0	0	\$0
2017 Current Services	0	0	\$15,000
2017 Program Increases	0	0	\$0
2017 Program Offsets	0	0	-\$5,000
2017 Request	0	0	\$10,000
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$5,000</b>

<b>Judicial and Courthouse Security and Construction - TOTAL</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	2,222	1,880	\$471,595
2016 Enacted	2,222	1,880	\$487,738
Adjustments to Base and Technical Adjustments	0	0	-\$5,368
2017 Current Services	2,222	1,880	\$482,370
2017 Program Increases	3	1	\$13,014
2017 Program Offsets	0	0	-\$5,000
2017 Request	2,225	1,881	\$490,384
<b>Total Change 2016-2017</b>	<b>3</b>	<b>1</b>	<b>\$2,646</b>

<b>Judicial and Courthouse Security - Information Technology Breakout (of Decision Unit Total)</b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	42	42	\$37,858
2016 Enacted	42	42	\$43,030
Adjustments to Base and Technical Adjustments	0	0	\$91
2017 Current Services	42	42	\$43,121
2017 Program Increases	0	0	\$9,651
2017 Program Offsets	0	0	-\$2,385
2017 Request	41	41	\$50,387
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$7,357</b>



## 1. Program Description

The Judicial and Courthouse Security decision unit includes personal protection of federal jurists, court officers, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding or as directed by the Attorney General, facility security (security equipment and systems to monitor and protect federal courthouses facilities), and security of in-custody defendants during court proceedings. The USMS determines the level of security required by assessing the potential threat, developing security plans based on risks and threat levels, and assigning the appropriate security resources required to maintain a safe environment and to protect the federal judicial process.

To ensure that protected members of the judicial family remain unharmed and the judicial process is unimpeded, DUSMs are assigned to the 94 judicial districts (93 federal districts and the Superior Court of the District of Columbia.)

Each judicial district is assigned a Judicial Security Inspector (JSI). This role requires intense training to enhance the general knowledge of DUSMs in every aspect of judicial security. JSIs improve the USMS' ability to provide security due to their special experience in evaluating security precautions and procedures in federal court facilities and other venues where judicial events may occur. The inspectors assist with off-site security for judges, prosecutors, and other protectees. JSIs also act as the USMS liaison with the various federal, state, and local law enforcement agencies; government groups; and members of the court family.

In addition to JSIs, the USMS has a cadre of inspectors located in each of the 12 judicial circuits to supervise protective operations when additional personal security is required due to threat-related activity. These inspectors oversee the protective mission required for key judicial conferences and assist in the security for members of the United States Supreme Court, when applicable.

High-security, high-profile events such as cases involving domestic and international terrorists, domestic and international organized criminal organizations, drug traffickers, gangs, and extremist groups require extensive operational planning and support from specially trained and equipped personnel. The complexity and threat levels associated with these cases require additional DUSMs for all aspects of USMS work.

### Protective Intelligence

The USMS' Office of Protective Intelligence (OPI) provides guidance and oversight to the district offices for investigations of threats and inappropriate communications directed at USMS protected persons and facilities. The OPI serves as the central point of intelligence and information related to the safety and security of members of the judiciary and other USMS protectees. The protective intelligence information OPI collects, analyzes, and disseminates to districts ensures appropriate measures can be put into place to protect the judicial process.

The USMS and FBI work together to assess and investigate all inappropriate communications received. The FBI has responsibility for investigating threats for the purpose of prosecution. The USMS conducts protective investigations that focus on determining a suspect's true intent, motive, and ability to harm the targeted individual, regardless of the possibility for prosecution. These



investigations are the USMS' highest priority and involve the systematic discovery, collection, and assessment of available information.

Protective Intelligence Inspectors (PIIs) are skillfully trained in the highly complex areas of protective investigations and threat management. PIIs assist in integrating protective, threat, and security based requirements through proactive and reactive means. PIIs help identify threat source groups and dangerous individuals. They also prepare and disseminate educational materials on security and threat issues as well as establish and maintain interagency working relationships and partnerships.

#### Judicial Facility Security Program

The USMS also administers the Judicial Facility Security Program (JFSP), funded through the Court Security Appropriation within the federal judiciary. Central to JFSP's mission is the management of approximately 5,100 contracted Court Security Officers (CSOs) who provide physical security at more than 400 court facilities throughout the nation. Their duties include: monitoring security systems, responding to duress alarms, screening visitors at building entrances, controlling access to garages, providing perimeter security in areas not patrolled by the Department of Homeland Security's Federal Protective Service, and screening mail and packages.

In addition to maintaining physical security of federal courthouses, the USMS develops and implements electronic security system installation plans to protect courthouses. These capabilities are critical to the safety of judicial officials, courtroom participants, the general public, and USMS personnel. Cameras, duress alarms, remote door openers, and other security devices improve the overall security presence. When incidents occur, the USMS is equipped to record events, monitor personnel and prisoners, and send additional staff to identify and stabilize situations requiring a tactical response.



2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE										
Decision Unit: Judicial and Courthouse Security										
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
TYPE	STRATEGIC OBJECTIVE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		2,125	\$461,795 [\$11,166]	1,950	\$460,980 [\$11,166]	1,957	\$472,738 [\$8,701]	1	\$7,646 [\$0]	1,958 \$480,384 [\$8,701]
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Program Activity	PERFORMANCE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		2,125	\$461,795 [\$11,166]	1,950	\$460,980 [\$11,166]	1,957	\$472,738 [\$8,701]		\$7,646 [\$0]	1,958 \$480,384 [\$8,701]
Performance Measure: Workload	1.1 3.2		740		926		1,930		193	2,123
Performance Measure: Output	1.1 3.2		299		305		593		5	598
Performance Measure: Output	1.1 3.2		13		17		25		0	25
Performance Measure: Outcome	1.1 3.2		0		0		0		0	0

\* Denotes inclusion in the DOJ Quarterly Status Report

Denotes inclusion in the DOJ Annual performance plan

\* Denotes inclusion in the DOJ Quarterly Status Report

\* Denotes inclusion in the DOJ Annual Performance Plan



## Data Definition, Validation, Verification, and Limitations:

### Performance Measures – Workload:

#### 1. Inappropriate communications/threats to protected court members:

- a. **Data Definition through FY 2015:** An inappropriate communication/threat is the number of protective investigations opened by district investigators based on any valid triggering event. A triggering event includes, but is not limited to, either written and oral communications, or any activity of a suspicious nature.
- b. **Refined Data Definition FY2016-7:** The number of external events that require a protective assessment to determine if the event is an *incident* - security activity that requires documentation, but not further investigation; *preliminary assessment* - investigative activity that is done absent a triggering event. Requires some investigation and may require intelligence or behavioral analyses; or a *predicated protective investigation* - investigative activity where an adequate triggering event is present indicating a crime has or might take place. Requires a significant level of protective response to include comprehensive investigation, intelligence analysis, may involve: behavioral analyses and/or protective measures such as a security detail, residential security survey, or security briefing.
- c. **Data Validation and Verification:** Numbers are calculated based on reporting from the Justice Detainee Information System (JDIS) and are validated by the USMS Judicial Security Division.
- d. **Data Limitations:** This data is accessible to all districts and is updated as new information is collected. There may be a lag in the reporting of data.

### Performance Measures – Outputs, Efficiencies, and Outcomes

#### 2. Threats to protected court members investigated:

- a. **Data Definition through FY 2015:** The total number of protective investigations opened which are assessed as potential or high risk at some point during the investigation. These cases typically involve a variety of protective measures including but not limited to 24-hour continuous details, portal to portal details, security briefings, residential surveys, increased police patrols, etc.
- b. **Refined Data Definition FY2016-7:** The total number of predicated protective investigations opened which are investigative activities with an adequate triggering event, indicating a crime has or might take place. Requires a significant level of protective response to include comprehensive investigation, intelligence analysis, may involve: behavioral analyses and/or protective measures such as a security detail, residential security survey, or security briefing.
- c. **Data Validation and Verification:** Numbers are calculated utilizing Justice Detainee Information System (JDIS) data and are validated by the USMS Judicial Security Division.
- d. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.



3. **Protective details required/provided to court members:**

- a. **Data Definition:** A protective detail is a security assignment of 24 hour continuous detail or a portal-to-portal protective detail resulting from threat assessment.
- b. **Data Validation and Verification:** Numbers are calculated utilizing Justice Detainee Information System (JDIS) data and are validated by the USMS Judicial Security Division.
- c. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.

4. **Assaults against protected court members:**

- a. **Data Definition through FY 2015:** Assaults against protected court family members are any criminal assaults motivated by the protectee's status within the court family.
- b. **Refined Data Definition FY2016-7:** Includes criminal assault motivated by a protectee's status as at Federal jurists, court officers, and other threatened persons in the interest of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding or as directed by the Attorney General and in-custody defendants during court proceedings.
- c. **Data Validation and Verification:** Numbers are calculated utilizing Justice Detainee Information System (JDIS) data and are validated by the USMS Judicial Security Division.
- d. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.



PERFORMANCE MEASURE TABLE															
Decision Unit: Judicial and Courthouse Security															
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017					
	Performance Measure: Workload	1. Inappropriate communications/threats to protected court family members	Actual	Actual	Actual	Actual	Target	Actual	Target	Target					
1.1 3.2			N/A	N/A	1,155	768	749	926	1,930	2,123					
1.1 3.2	Performance Measure: Output	2. Threats to protected court family members investigated	N/A	N/A	472	399	299	305	593	598					
1.1 3.2	Performance Measure: Output	3. Protective details required/provided to court family members	N/A	N/A	28	13	15	17	25	25					
1.1 3.2	Performance Measure: Outcome	4. Assaults against protected court family members**^	N/A	N/A	0	0	0	0	0	0					
N/A = Data unavailable															
*Denotes inclusion in the DOJ Quarterly Status Reports															
^Denotes inclusion in the DOJ Annual Performance Plan															



### 3. Performance, Resources, and Strategies

The USMS maintains the integrity of the federal judicial system by: 1) ensuring that U.S. Courthouses, federal buildings, and leased facilities occupied by the federal judiciary and the USMS are secure and safe from intrusion by individuals and technological devices designed to disrupt the judicial process; 2) guaranteeing that federal judges, attorneys, defendants, witnesses, jurors, and others can participate in uninterrupted court proceedings; 3) assessing inappropriate communications and providing protective details to federal judges or other members of the judicial system; 4) maintaining the custody, protection, and security of prisoners and the safety of material witnesses for appearance in court proceedings; and 5) limiting opportunities for criminals to tamper with evidence or use intimidation, extortion, or bribery to corrupt judicial proceedings. The USMS assesses the threat level at all high-risk proceedings, develops security plans, and assigns the commensurate security resources required to maintain a safe environment, including the possible temporary assignment of DUSMs from one district to another to enhance security. Where a proceeding is deemed high-risk, the USMS district staff and JSIs develop an operational plan well in advance of when a proceeding starts.

**Measure:** Assaults against court members

**FY 2015 Target:** 0

**FY 2015 Actual:** 0

***Strategy: Develop standardized training programs on personal security awareness for the court family and protectees***

Standardized training was developed for personal security awareness for the workplace, home, off-site, and for those under USMS protection. This was accomplished by combining current policies and procedures in newly developed PowerPoint and handout materials accompanied by hands-on instruction. At the district level, training will be offered to the court members at least once a year. In addition, personal security awareness training will continue to be conducted at the onset of a protective detail and protective investigation for the protectee and their family. Personal security training will also be provided when residential security surveys are conducted.

***Strategy: Develop a continuing education strategy for all protectees on protective capabilities and procedures***

The USMS developed and distributed 10,000 copies of a pocket security guide, completed and distributed a Workplace Security video and is working partnership with the AOUSC to develop and Internet Security video. In addition, an Off-Site Security Book is in the publishing phase of completion.

***Strategy: Formalize protective parameters for level of protection based on mitigation of efforts***

The USMS established a training program on formal mitigation strategies. This includes OPI training, district protective investigations, JSI Basic and Sustainment training and Protective Intelligence Training Program (PITP) training. The positive feedback validates that USMS is better positioned to properly implement protection and creates greater standardization of protection parameters across the agency spectrum.



***Strategy: Explore the development of a risk-based protection for the Supreme Court Judiciary***

The USMS will pursue a risk-based protection program to ensure standardization and continuity of a comprehensive protection program for Supreme Court Justices similar to that provided to like-federal protectees. A review of current protection practices will be conducted to identify and validate requirements and to ensure appropriate resources are allocated for the security of the Justices. Only by providing risk-based protection (rather than threat-based protection or as-requested security assistance) can the USMS sufficiently align protection practices to government and industry best practices for high-profile and high-value protectees. Formalization of interagency coordination and delineation of authorities and responsibilities between interagency partners as well as improved information sharing, cooperation, and collaboration between the USMS, Supreme Court Police Department, and Supreme Court Chambers is required to ensure the delivery of the most effective protection to Supreme Court Justices.

***Strategy: Assess the USMS Behavioral Analytic Unit's capabilities to determine the required increase in staffing levels needed to support additional USMS-wide responsibilities.***

The USMS assessed the current capabilities of the Investigative Operations Division, Sex Offender Investigations Branch - Behavioral Analysis Unit (BAU) and the potential to leverage this asset to protective and other USMS missions. The USMS established a behavioral research unit in their Judicial Security Division (JSD), Office of Protective Intelligence. This unit conducts behavioral assessments on subjects that threaten the judiciary and conduct behavioral studies to benefit the judicial security interests of USMS. With over 18,000 threat cases in the USMS historical database, behavioral studies of these cases and case consultation on ongoing threats involving protectee cases tremendously enhances the agency's ability to effectively provide protection.

***Strategy: Conduct a staffing analysis of JFSP Federal Employee and contracts to determine how to more efficiently allocate resources***

An organizational assessment of JSD Judicial Services was conducted to clearly define branch responsibilities, align staff tasks and responsibilities and reduce potential redundancies. Based on the results of this assessment, incremental changes were made to streamline operations, improve mission performance, enhance collaboration and better align existing resources with strategic goals and objectives. By centralizing similar actions, redefining roles and responsibilities, positioning personnel for optimal results, improving coordination and increasing transparency and accountability, this effort enhanced overall efficiency and effectiveness. This was accomplished by adopting a regional team concept and organizational shifts. Annual staffing allocation reviews ensure program areas remain appropriately staffed.

***Strategy: Assess the CSO workforce and hiring practices to ensure mission needs are being met***

The USMS will conduct an analysis of the current hiring practices to identify areas for greater efficiency in validating CSO suitability in both background investigations and medical clearances in order to timely address field staffing requirements. Internal Office of Court Security (OCS) processes, interagency dependencies, and contract stipulations will be reviewed to make informed recommendations. Follow-on process and procedural



refinements and contract modifications may be implemented to promote continual improvement of the court security mission.

***Strategy: Modernize the Physical Security Access Control System (PACS)***

The USMS will systematically work to modernize the PACS for federal court facilities nationwide. A comprehensive PACS risk assessment process will provide the foundation for facility prioritization, resource planning, existing equipment lifecycle and maintenance issues, and protection of all who work, visit or utilize the federal court facilities. Additionally, modernization efforts will explore opportunities for efficiencies and cost savings through phased implementation of networked regional PACS servers.

***Strategy: Reevaluate offsite security requirements, asset costs, and protocols to address current and future needs***

A comprehensive program review of the two primary offsite judicial security programs, the Home Intrusion Detection System (HIDS) and Judicial Duress Alarm Response (JDAR), will be conducted in order to evaluate the effectiveness of current policies, processes, procedures, and equipment. The results of the review will inform recommendations for these programs and technologies across several fiscal years. A targeted survey of district feedback will inform updates to policy and current security contract support. Via a thorough assessment, the USMS will identify best practices for collaboration between judicial security program offices, the Communications Center, districts, and program participants. This assessment will also review and identify IT infrastructure and equipment lifecycle requirements to guarantee uninterrupted program support and inform budget forecasting and related acquisitions processes. Training for district representatives who interface directly with offsite security program participants will be updated and educational and reference materials for the judicial family will be developed.

***Strategy: Leverage and/or partner with other agencies for physical security research and development needs***

The USMS created a dedicated unit to research, test, and evaluate new equipment standards to ensure judicial security remains on the cutting edge. The new Research and Evaluation Branch (REB) comprises a Physical Security Specialist from the Office of Court Security (OCS) and the Office of Security Systems (OSS) as well as a Management and Program Analyst from OCS. A governance board ensures engagement and coordination on every project. Improvement to JFSP effectiveness and increased value for expenditures is accomplished through research and evaluation of products for replacement in current operations; new technology and methodologies to improve operations by reducing costs and/or improving security and business practices; leveraging research already being done; and providing technical and management support.



**B. Fugitive Apprehension**

<b><i>Fugitive Apprehension</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	1,744	1,649	\$402,681
2016 Enacted	1,744	1,649	\$416,216
Adjustments to Base and Technical Adjustments	0	0	-\$4,928
2017 Current Services	1,744	1,649	\$411,288
2017 Program Increases	62	60	\$34,055
2017 Program Offsets	0	0	\$0
2017 Request	1,806	1,709	\$445,343
<b>Total Change 2016-2017</b>	<b>62</b>	<b>60</b>	<b>\$29,127</b>

<b><i>Fugitive Apprehension -Information Technology Breakout (of Decision Unit Total)</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	33	33	\$29,746
2016 Enacted	33	33	\$33,810
Adjustments to Base and Technical Adjustments	0	0	\$71
2017 Current Services	33	33	\$33,881
2017 Program Increases	0	0	\$8,497
2017 Program Offsets	0	0	-\$1,874
2017 Request	33	33	\$40,504
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$6,694</b>

**I. Program Description**

The Fugitive Apprehension decision unit includes domestic and international fugitive investigations, fugitive extraditions and deportations, sex offender investigations, technical operations, and the management and disposal of seized and forfeited assets. The USMS is authorized to investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General, although this authorization is not to be construed to interfere with or supersede the authority of other federal agencies or bureaus.

Domestic Fugitive Investigations

The USMS is the federal government's primary agency for apprehending fugitives and provides assistance and expertise to other federal, state, and local law enforcement agencies in support of fugitive investigations. The USMS works aggressively to reduce violent crime through the apprehension of fugitives through a nationwide network of task forces and other investigative resources such as criminal intelligence, electronic, air, and financial surveillance.

Currently, the USMS is the lead agency for 60 district-led fugitive task forces and seven Regional Fugitive Task Forces (RFTFs), which are headquartered in Atlanta, Birmingham, Chicago, Los Angeles, New York, Orlando, and Washington, D.C. The seven RFTFs function within 34 federal judicial districts, partnering with federal, state, and local law enforcement agencies. The RFTFs focus investigative resources to locate and apprehend the most egregious fugitives, and to assist in high-profile investigations that identify criminal activities for future state and federal prosecutions.



The USMS complements its RFTFs with a network of 60 multi-agency Violent Offender Task Forces (VOTFs). These VOTFs operate in districts that do not currently have an RFTF. The VOTF task force personnel are generally not assigned to these organizations full-time. Each VOTF focuses investigative efforts on felony fugitives wanted for federal, state, and local crimes. This includes, but is not limited to, murderers, sex offenders, gang members, and drug traffickers. These task forces are often granted funding through initiatives such as the Joint Law Enforcement Operations (JLEO) funding (administered by the DOJ Assets Forfeiture Fund), the High Intensity Drug Trafficking Area, and Project Safe Neighborhoods programs.

In addition, the USMS allocates resources and funding to its 15 Most Wanted Fugitive Program, which prioritizes the investigation and apprehension of high-profile offenders who are considered to be career criminals and some of the country's most dangerous fugitives. Since the program's inception in 1983, more than 229 of these fugitives have been apprehended. The USMS supplements the successful 15 Most Wanted Fugitive Program with its Major Case Fugitive Program. Much like its predecessor, the Major Case Fugitive Program prioritizes the investigation and apprehension of high-profile offenders who tend to be career criminals with histories of violence and pose a significant threat to public safety. Current and past fugitives targeted by this program include murderers, violent gang members, sex offenders, major drug kingpins, organized crime figures, and individuals wanted for high-profile financial crimes.

The USMS is also responsible for the majority of Organized Crime Drug Enforcement Task Force (OCDETF) federal fugitive investigations. In addition, the USMS provides assistance to state and local partner agencies in apprehending numerous drug-related and organized crime felons that are eventually prosecuted at the state level.

#### International Fugitive Investigations

In addition to domestic investigations, the USMS has statutory responsibility for all international extraditions, ensuring that there are no safe havens for criminals who flee the territorial boundaries of the United States. Globalization of crime, coupled with the immediate mobility of fugitives, requires an intensive effort to address the number of fugitives who flee U.S. territorial boundaries. The USMS has become a leader in the development of several international fugitive programs in order to effectively investigate, apprehend, and remove these fugitives back to the United States. The USMS Investigative Operations Division (IOD) manages foreign and international fugitive investigations, three foreign field offices, foreign law enforcement training, the Mexico and Canada Investigative Liaison programs, and the worldwide extradition program. IOD also oversees liaison positions at Interpol–United States National Central Bureau (USNCB), DOJ Office of International Affairs (OIA), the El Paso Intelligence Center (EPIC), and the Department of State–Diplomatic Security Services (DOS-DSS).

The IOD's International Investigations Branch (IIB) is responsible for processing, reviewing, and coordinating investigations concerning the pursuit and apprehension of international fugitives and foreign fugitives. The USMS defines international fugitives as "fugitives wanted in the United States who have fled to foreign countries to avoid prosecution or incarceration." The IIB staff coordinates international investigations with district field offices and other domestic law enforcement agencies to provide guidance and direction on the international process. The IIB also provides points of contact in foreign countries to facilitate these investigations. Additionally, it is responsible for oversight and coordination of the USMS Extraterritorial



**Investigations Policy.** This policy sets forth the manner in which law enforcement activities are conducted outside of U.S. territorial jurisdiction. Through an agreement with the DOJ Criminal Division, the USMS is responsible for investigating foreign fugitive cases referred by Interpol, DOJ-OIA, other domestic law enforcement agents stationed overseas, and through foreign embassies in the United States.

Interaction with law enforcement agencies and representatives of foreign governments occurs daily. The United States has no jurisdiction outside of its borders; therefore, the IIB relies heavily on its working relationships with foreign countries. The IIB emphasizes relationships with foreign embassies in the Washington, D.C. area and, through district offices, with consulates around the United States. The IIB staff participates in the Washington, D.C.-based Liaison Officers Association, which comprises foreign law enforcement officials assigned to embassies in the United States. The USMS coordinates foreign fugitive cases with these offices, thereby expanding the network of foreign law enforcement resources available to the USMS.

### Sex Offender Investigations

The USMS is the lead law enforcement agency responsible for investigating sex offender registration violations. The USMS has three distinct missions pursuant to the Adam Walsh Child Protection and Safety Act: (1) assisting state, local, tribal, and territorial authorities in the location and apprehension of non-compliant sex offenders; (2) investigating violations of 18 USC § 2250 and related offenses; and (3) assisting in the identification and location of sex offenders relocated as a result of a major disaster. The USMS carries out its duties in partnership with state, local, tribal, and territorial law enforcement authorities and works closely with the National Center for Missing and Exploited Children.

To further enhance its capabilities and support state and local partners, the USMS established the National Sex Offender Targeting Center (NSOTC). The NSOTC has partnered with several agencies, including Interpol, the DOS-DSS, and Customs and Border Protection to identify Adam Walsh Act violations by tracking sex offenders who travel in and out of the United States and fail to comply with the mandated registration requirements. The NSOTC has also created an initiative with the DOD's Military Correctional Branch to expand their notification procedures to include the NSOTC when military convicted sex offenders are released, which will allow enforcement officials to better identify non-compliant sex offenders for arrest and prosecution. SOIB activities also support the DOJ's National Strategy for Child Exploitation Prevention and Interdiction.

### Technical Operations

The USMS' Technical Operations Group (TOG) provides the USMS, other federal agencies, and requesting state or local law enforcement agencies with the most timely and technologically advanced electronic surveillance and investigative intelligence. Annually, TOG assists hundreds of other federal, state, and local law enforcement agencies in support of thousands of the nation's most critical and time-sensitive investigations. TOG operates from eight Regional Technical Operations Centers (RTOCs) and 21 field offices throughout the United States and Mexico. TOG comprises approximately 100 personnel, including technically trained criminal investigators, investigator-pilots, intelligence analysts, and administrative specialists. The RTOCs are strategically located in the major metropolitan areas throughout the United States.



TOG comprises two branches that work synergistically—the Electronic Surveillance Branch (ESB) and the Air Surveillance Branch (ASB).

The ESB provides state-of-the-art electronic surveillance assistance in fugitive investigations in response to the criminal element's increasing reliance on technology to continue criminal enterprise and flight. ESB deploys sophisticated commercial and sensitive technical surveillance technologies for the interception of hard line and cellular telecommunications, Wi-Fi collection and emitter location, Global Positioning System (GPS) and radio frequency tagging/tracking, computer and cellular exploitation and on-scene forensic extraction, photo/video surveillance, and Technical Surveillance and Countermeasure (TSCM) sweeps to detect surreptitious monitoring devices.

ASB provides aerial support to the various missions of the USMS with seven specially-equipped fixed wing aircraft outfitted with advanced avionics, surveillance, and communications capabilities. The aircraft and pilots are co-located with the RTOCs to provide a variety of investigative, surveillance, and reconnaissance capabilities that include still and motion aerial imagery and enhancement, aerial RF beacon tracking, mobile communication command and control, and electronic surveillance package deployment in support of fugitive investigative missions.

Due to TOG's unique ability of identifying and locating persons of interest to the United States by way of electronic surveillance and technical operations, TOG is the sole USMS liaison to the U.S. Intelligence Community (IC) with respect to signal intelligence, measurement and signature intelligence, imagery intelligence, electronic intelligence, and communications intelligence. Additionally, TOG shares its investigative tactics, techniques, and procedures with certain members of the IC and DOD. This collaborative effort has allowed all participants to enhance their capabilities and mission readiness.

#### Asset Forfeiture

The USMS serves as the primary custodian for the DOJ Asset Forfeiture Program (AFP), whose mission is to support the consistent and strategic use of asset forfeiture to disrupt and dismantle criminal enterprises, deprive wrongdoers of the profits and instrumentalities of criminal activity, deter crime, and restore property to victims of crime while protecting individual rights. The USMS provides the fiduciary stewardship to ensure that assets seized for forfeiture are managed and disposed of in an efficient and effective manner. DOJ AFP participating agencies include DEA, FBI, ATF, FDA, DOS/DSS, DOD Criminal Investigation Service, U.S. Postal Inspection Service, and each of the U.S. Attorney's offices.

To proactively identify assets during an investigation, Asset Forfeiture Financial Investigators (AFFI) work in conjunction with Investigative Agencies and U.S. Attorney's offices to conduct financial analyses to determine net equities of assets targeted for forfeiture, execute court orders, and assist in the physical seizure and security of the assets. The AFFI positions are funded from the AFF, and work exclusively in the USMS AFP. These positions are in addition to DUSMs executing the AFF mission and are funded through the USMS S&E appropriation.

Highly trained USMS employees execute the day-to-day operations of managing and disposing of tens of thousands of assets on an annual basis. These skilled individuals are responsible for the lifecycle management of all assets in USMS custody and work to ensure that assets are



disposed of in a timely, cost-efficient manner using best business practices to minimize expenses to maximize proceeds.



## 2. Performance and Resource Tables

TYPE	STRATEGIC OBJECTIVE	PERFORMANCE	FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
			FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)										
Program Activity			1,906	\$402,681 [\$12,100]	1,944	\$416,216 [\$12,974]	60	\$29,127 [\$0]	2,004	\$445,343 [\$12,974]
Performance Measure: Workload	3.5	1. Number of Federal fugitives		\$11,258		48,540		0		48,540
Performance Measure: Output	3.1	2. Number of assets in inventory: a. Cash b. Complex Assets c. All Other Assets		22,386 14,779 187 7,421		15,680 9,500 180 6,000		Retired		Retired
Performance Measure: Output	3.1	3. Number of assets received* a. Cash b. Complex Assets c. All Other Assets		N/A N/A N/A N/A		N/A N/A 90 5,000		0 0 0 0		13,500 8,410 90 5,000
Performance Measure: Outcome	3.5	4. Number of Federal warrants cleared		32,171		30,144		0		30,144
N/A = Data Unavailable * Denotes new measure										



RESOURCES		PERFORMANCE OBJECTIVE	PERFORMANCE	Target	Actual	Projected	Changes	Requested (Total)
TYPE	STRATEGIC OBJECTIVE							
Performance Measure: Output	2.2	5. Non-compliant Sex Offender Investigations	1,841		1,867	1,786	27	1,813
Performance Measure: Output	3.1	6. Number of assets disposed a. Cash b. Complex Assets c. All Other Assets	21,496 14,376 67	19,575 12,668 115	14,500 9,210 70	0 0 0	0	14,500 9,210 70
Performance Measure: Output	3.1	7. Percent of asset value returned to Fund*	7,153	6,992	5,220	0	0	5,220
Performance Measure: Output	3.1	8. Comparison of value returned to Fund** a. Jewelry, Arts, Antiques & Collectibles b. Real Property c. Vehicles	55%	64%	55%	Retired	Retired	Retired
Performance Measure: Outcome	3.1	9. Percent of All Other Assets disposed within procedural time frames*	60%	57%	60%	Retired	Retired	Retired
Performance Measure: Outcome	3.1	10. Assets disposed with Procedural Timeframes by Category** a. Real Property b. Conveyances (vehicles, vessels and aircraft)	N/A N/A N/A	N/A N/A N/A	80% 80% 80%	0 0 0	0	80% 80% 80%
Performance Measure: Outcome	3.5	11. Number of USMS federal and egregious non-federal fugitives apprehended/cleared	104,638	107,001	104,556	0	0	104,556
Performance Measure: Outcome	3.5	12. Number and Percent federal fugitives apprehended/cleared	30,711	58%	29,124	0	0	29,124
					64%	60%		60%

\* Denotes inclusion in the DOJ Quarterly Status Report

\*\* Denotes new measure



## **Data Definition, Validation, Verification, and Limitations:**

### **Performance Measures – Workload:**

#### **1. Federal fugitives:**

- a. **Data Definition:** Wanted fugitives include all those wanted at the beginning of the fiscal year, plus all fugitive cases received by the USMS throughout the fiscal year. Fugitives with multiple warrants are counted once.
  - b. **Data Validation and Verification:** Warrant and fugitive data is verified by a random sampling of National Crime Information Center (NCIC) records generated by the FBI. The USMS coordinates with district offices to verify that warrants are validated against the signed paper records. The USMS then forwards the validated records back to NCIC.
  - c. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.
- 2. Number of assets in inventory – Retired: Transition to number of assets received. Assets in inventory are a snapshot in time and therefore are limited in depicting workload variability.**
- a. **Data Definition:** The number of assets currently in USMS custody that are pending forfeiture decision/disposal instructions.
  - b. **Data Validation and Verification:** Assets are recorded by seizing agencies and verified by District Offices. Data is entered by individuals in District Offices and Headquarters and is audited by internal and external controls.
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the Consolidated Asset Tracking System (CATS) is a continuous process.
- 3. Number of assets received -- New: Includes a count of the number of assets received during the fiscal year.**
- a. **Data Definition (Cash):** The number of unique cash asset IDs received into USMS custody.
  - Data Definition (Complex Assets):** The number of assets IDs categorized as commercial business, financial instrument, or intangible asset received into USMS custody.
  - Data Definition (All Other Assets):** The total number of unique asset IDs, less cash and complex assets, received into USMS custody.
  - b. **Data Validation and Verification:** Assets are recorded by seizing agencies and verified by District Offices. Data is entered by individuals in District Offices and Headquarters and is audited by internal and external controls.
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.

### **Performance Measures – Outputs, Efficiencies, and Outcomes**

#### **4. Number of federal warrants cleared:**

- a. **Data Definition:** A warrant is considered cleared if the fugitive is arrested, has a detainer issued, or the warrant is dismissed.



- b. **Data Validation and Verification:** Warrant and fugitive data is verified by a random sampling of NCIC records generated by the FBI. The USMS coordinates with district offices to verify that warrants are validated against the signed paper records. The USMS then forwards the validated records back to NCIC.
  - c. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.
5. **Non-compliant Sex Offender Investigations:**
  - a. **Data Definition:** Opened investigations of violators of the Adam Walsh Child Protection and Safety Act that reach the level of the Attorney General's Guidelines for Conducting Domestic Investigations.
  - b. **Data Validation and Verification:** Annual Office of Inspections (OI) Self-Assessment Guide (SAG) review of files vs. the database. OI also conducts 10 annual in-person inspections of Districts and Divisions each year.
  - c. **Data Limitations:** Data entry often lags behind operations causing a delay in timely and accurate information. This lag varies by office size, staffing and other intangibles.
6. **Number of assets disposed:**
  - a. **Data Definition (Cash):** The number listed for "Cash" signifies the total separate cash asset IDs in USMS custody.
  - Data Definition (Complex Asset):** The number listed for "Complex Assets" signifies the sum of total assets categorized as "Commercial Business," "Financial Instrument," or "Intangible Asset."
  - Data Definition (All Other Assets):** The total number of unique asset IDs, less cash and complex assets disposed.
  - b. **Data Validation and Verification:** Assets are recorded by seizing agencies and verified by District Offices. Data is entered by individuals in District Offices and Headquarters and is audited by internal and external controls
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.
7. **Percent of asset value returned to the fund – Retired: Transition to comparison of value returned to the fund. Current measure accounts for victim payments and equitable sharing the same as maintenance and disposal costs.**
  - a. **Data Definition:** The percent of asset value returned to the fund is calculated by the value collected from the asset at disposal, less maintenance fees, victim payments and equitable sharing; divided by the value collected from the asset at disposal.
  - b. **Data Validation and Verification:** Assets are recorded by seizing agencies and verified by District Offices. Data is entered by individuals in District Offices and Headquarters and is audited by internal and external controls.
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.
8. **Comparison of Value Returned to the Fund – New: Includes only assets disposed through sale. Calculations by asset category allow for the identification of specific performance trends.**



- a. **Data Definition (Jewelry, Arts, Antiques, and Collectibles):** The percent proceeds returned to the fund through the sale of Jewelry, Arts, Antiques, and Collectibles (JAAC). The percentage is calculated by sale value of the asset at disposal, less management and disposition fees; divided by the appraised value.
  - b. **Data Definition (Real Property):** The percent proceeds returned to the fund through the sale of Real Property. The percentage is calculated by sale value of the asset at disposal, less management and disposition fees; divided by the appraised value.
  - c. **Data Definition (Vehicles):** The percent proceeds returned to the fund through the sale of Vehicles. The percentage is calculated by sale value of the asset at disposal, less management and disposition fees; divided by the appraised value.
  - d. **Data Validation and Verification:** Assets are recorded by seizing agencies and verified by District Offices. Data is entered by individuals in District Offices and Headquarters and is audited by internal and external controls.
  - e. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.
9. **Percent of All Other Assets disposed within procedural time frames – Retired: Transition to assets disposed within procedural timeframes by category to better reflect performance for the majority of assets.**
- a. **Data Definition:** The number listed for “percent of all other assets disposed” signifies the total assets disposed within procedural timeframes.
  - b. **Data Validation and Verification:** Data is an estimation based upon the date extracted as data entry in CATS is a continuous process.
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.
10. **Assets Disposed Within Procedural Timeframes by Category – New: Allows for performance trend identification for asset categories with differing procedural timeframes**
- a. **Data Definition (Real Property):** The number of real property assets disposed within established procedural timeframes, divided by the total number of real property assets disposed.
  - b. **Data Definition (Conveyances) [Vehicles, Vessels and Aircraft]:** The number of conveyances disposed within established procedural timeframes, divided by the total number of conveyances disposed.
  - b. **Data Validation and Verification:** Data is an estimation based upon the date extracted as data entry in CATS is a continuous process.
  - c. **Data Limitations:** Data are estimates based upon the date extracted as data entry in the CATS is a continuous process.
11. **Number of USMS federal and egregious non-federal fugitives apprehended/cleared:**
- a. **Data Definition:** This includes physical arrest, directed arrest, surrender, dismissal, and arrest by another agency, when a federal fugitive is taken into custody on a detainment order, and warrants that are dismissed to the other cleared categories. It also includes egregious non-federal felony fugitives which include targeted state and local fugitives with an offense code of: homicide, kidnapping, sexual assault, robbery, assault, threats, arson, extortion, burglary, vehicle theft, dangerous drugs, sex



offenses, obscenity, family offenses, obstructing the police, escape, obstruction of justice, weapon offenses, and/or crime against persons.

- b. **Data Validation and Verification:** See federal fugitives (warrants) above. Prior to assigning state and local warrants, the Supervisory Deputy U.S. Marshal (SDUSM) or their designee is responsible for reviewing each case to verify that it meets the criteria above.
- c. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.

## 12. Number and Percent of federal fugitives apprehended/cleared:

- a. **Data Definition:** The percent cleared is calculated by taking the number of cleared fugitives divided by the sum of received fugitives (fugitives that had a warrant issued during the fiscal year) and on-hand fugitives (fugitives that had an active warrant at the beginning of the fiscal year).
- b. **Data Validation and Verification:** Warrant and fugitive data is verified by a random sampling of NCIC records generated by the FBI. The USMS coordinates with district offices to verify that warrants are validated against the signed paper records. The USMS then forwards the validated records back to NCIC.
- c. **Data Limitations:** This data is accessible to all districts and updated as new information is collected. There may be a lag in the reporting of data.



PERFORMANCE MEASURE TABLE																
Decision Unit: Fugitive Apprehension																
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
	Performance Measure: Workload		Actual		Actual		Actual		Actual		Target	Actual	Target	Target	Target	
3.5		1. Number of Federal fugitives	N/A		N/A		N/A		48,525	48,493	51,258	49,061	48,540	48,540		
3.1	Performance Measure: Output	2. Number of assets in inventory	N/A		N/A		N/A		22,448	21,107	22,386	17,564	15,680			
		a. Cash	N/A		N/A		N/A		14,704	13,324	14,779	10,937	9,500	Retired		
		b. Complex Assets	N/A		N/A		N/A		187	185	187	224	180			
		c. All Other Assets	N/A		N/A		N/A		7,557	7,598	7,421	6,403	6,000			
3.1	Performance Measure: Output	3. Number of assets received**	N/A		N/A		N/A		N/A	N/A	N/A	N/A	13,500	13,500		
		a. Cash	N/A		N/A		N/A		N/A	N/A	N/A	N/A	8,410	8,410		
		b. Complex Assets	N/A		N/A		N/A		N/A	N/A	N/A	N/A	90	90		
		c. All Other Assets	N/A		N/A		N/A		N/A	N/A	N/A	N/A	5,000	5,000		
3.5	Performance Measure: Outcome	4. Number of Federal warrants cleared	N/A		N/A		N/A		39,267	31,900	32,171	32,002	30,144	30,144		
2.2	Performance Measure: Output	5. Non-compliant Sex Offender Investigations	N/A		N/A		N/A		2,009	2,059	1,841	1,867	1,786	1,813		
3.1	Performance Measure: Output	6. Number of assets disposed	N/A		N/A		N/A		21,983	21,431	21,496	19,575	14,500	14,500		
		a. Cash	N/A		N/A		N/A		14,720	14,367	14,276	12,668	9,210	9,210		
		b. Complex Assets	N/A		N/A		N/A		65	93	67	115	70	70		
		c. All Other Assets	N/A		N/A		N/A		7,198	6,971	7,153	6,792	5,220	5,220		
N/A = Data unavailable																
** Denotes new measure																



PERFORMANCE MEASURE TABLE																
Decision Unit: Fugitive Apprehension																
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
			Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target		
3.1	Performance Measure: Output	7. Percent of asset value returned to Fund*	N/A		N/A		66%		60%		55%	64%	55%		Retired	
3.1	Performance Measure: Output	8. Comparison of value returned to Fund** a. Jewelry, Arts, Antiques & Collectibles b. Real Property c. Conveyances (Vehicles, vessels, and aircraft)	N/A		N/A		N/A		N/A		N/A		N/A		85%	
			N/A		N/A		N/A		N/A		N/A		N/A		75%	
			N/A		N/A		N/A		N/A		N/A		N/A		75%	
3.1	Performance Measure: Outcome	9. Percent of All Other Assets disposed within procedural time frames*	N/A		N/A		57%		60%		60%	57%	60%		Retired	
3.1	Performance Measure: Outcome	10. Assets disposed with Procedural Timeframes by Category** a. Real Property b. Vehicles	N/A		N/A		N/A		N/A		N/A		N/A			
			N/A		N/A		N/A		N/A		N/A		N/A		80%	
			N/A		N/A		N/A		N/A		N/A		N/A		80%	
3.5	Performance Measure: Outcome	11. Number of USMS federal and egregious non-federal fugitives apprehended/cleared	N/A		N/A		104,651		105,226		104,638	107,900	104,556		104,556	
3.5	Performance Measure: Outcome	12. Number of federal fugitives apprehended/cleared*^ Percent of federal fugitives apprehended/cleared*^	N/A		N/A		32,811		30,792		30,711	31,202	29,124		29,124	
			N/A		N/A		64%		63%		58%	64%	60%		60%	
N/A = Data unavailable																
* Denotes inclusion in the DOJ Quarterly Status Report																
^ Denotes inclusion in the DOJ Annual Performance Plan																



### 3. Performance, Resources, and Strategies

#### Fugitive Apprehension

One of the challenges facing the fugitive apprehension program is the volume of program responsibility and the corresponding limited resources. To affect the greatest public protection, the fugitive program focuses on the most egregious federal, state and local offenders. This requires strategic selection of state and local fugitive cases. The current measures focus on cases in which the USMS has held the primary arresting authority and cases that arguably have a greater impact on public safety, making them a USMS fugitive apprehension priority.

**Measure:** Number of USMS federal and egregious non-federal fugitives apprehended/cleared

**FY 2015 Target:** 104,638

**FY 2015 Actual:** 107,001

**Measure:** Number and percent of USMS federal fugitives apprehended/cleared

**FY 2015 Target:** 30,711/58%

**FY 2015 Actual:** 31,202/64%

***Strategy: Allocate resource effectively to maximize effectiveness in state and local fugitive apprehension***

In the past, Violent Offender Task Forces (VOTF) received disparate levels of funding, without a coordinated USMS strategy. To address this issue, the USMS created a working group of Subject Matter Experts (SMEs) to formulate an agency-wide strategy to disperse Joint Law Enforcement Operations (JLEO) resources. The working group developed a formula based on fugitives, crime rates and existing resources. The formula was communicated to all VOTFs and implemented in phases so as to not radically change current operations. Finally, the agency plans to periodically review the formulation and adjust as needed. VOTFs funding was adjusted to address workload and align with USMS and DOJ strategic priorities. Certain previously funded items, such as fuel, were cut from further funding to ensure that JLEO resources were evenly distributed based on workload metrics alone.

***Strategy: Clearly define and communicate standard requirements and procedures regarding state and local case adoption***

In order to standardize state and local case adoption across RFTFs and VOTFs, the USMS identified offenses associated with the cases proposed for adoption that are considered the most egregious and have the greatest effect on our communities. These include homicide, kidnapping, sexual assault, robbery, assault, threats, arson, extortion, burglary, vehicle theft, dangerous drugs, sex offenses, obscenity, family offenses, obstructing the police, escape, obstruction of justice, weapon offenses, and/or crime against persons. A Standard Operating Procedures (SOP) was then established for taskforces outlining the case adoption criteria, procedures and validation. As a result, the USMS has narrowed the scope (and occasionally the quantity) of state and local case adoption to focus on those cases posing a greater risk to communities.

***Strategy: Instill program accountability through the implementation of a fugitive case adoption validation process***

To ensure that state and local cases adopted adhere to the enforcement SOP, the USMS clearly communicated the enforcement SOP with district leadership, and VOTF members



and implemented standardized training for supervisors to district Chiefs on the SOP criteria and procedures. Quarterly metrics for district and VOTFs are established which measure compliance with the SOP. The training and performance requirements have increased compliance with the enforcement SOP agency-wide from 78% to 89% in one year.

***Strategy: Formalize the roles and responsibilities for the support and oversight of domestic investigations***

The USMS will work to formalize the roles and responsibilities of domestic investigations by establishing oversight through SME support and policy enforcement. To achieve success in this regard, an effective business process must be developed and executed. This requires the ability to determine the appropriate RFTF placement and selection criteria while ensuring maximum coverage. These actions will help to ensure a reasonable span of control. Extensive review is critical to the process and will include an assessment to determine the optimal RFTF structure. By providing continued district outreach, communication, and oversight, the USMS will be able to establish a system that ensures continuity and sustainability for future investigative operations.

***Strategy: Increase investigative capability and agility through non-traditional methods***

Through reimbursable agreements with the OCDETF program, the USMS will integrate resources from within its investigative operations to permit flexible program decisions and the ability to quickly move assets and resources in response to ever-changing actionable intelligence. This will provide an agile and innovative platform to enhance our ability to apprehend fugitives domestically and internationally.

**Asset Forfeiture**

Assets targeted for forfeiture are becoming increasingly complex, creating the need for greater collaboration at all phases of a case. Successful forfeiture is dependent upon a cadre of trained individuals with specialized skills and a focus on pre-seizure planning to permit evaluation of the assets seized and the corresponding potential value returned to the fund. Continued focus on evaluation of the type of asset seized and effective management of inventory and disposal ensures the highest return to the fund for reinvestment in state and local law enforcement and the community.

**Measure:** Percent of asset value returned to the fund

**FY 2015 Target:** 55%

**FY 2015 Actual:** 64%

***Strategy: Increase success by leveraging collaboration between USMS AFP and domestic law enforcement partners to include pre-seizure planning and training***

The USMS AFP leveraged collaboration and training opportunities for optimal outcomes to ensure continued success. AFP increased representation in high level and financial investigative working groups through various levels of participation with international governments, state and local law enforcement agencies and investigative agencies on asset forfeiture topics and financial investigation subject matter. The USMS oversaw the most recent onboarding effort of DUSMs as Asset Forfeiture Financial Investigators, solidifying the presence of highly trained, skilled financial investigators within the AFP. Recognizing the importance and emphasis of training as a continued element for success, the USMS AFP developed and implemented the AF Blended Learning Initiative, a hybrid



training approach using distance learning with classroom training to decrease training costs, improve efficiency and deliver a learning platform during budgetary training restrictions.

***Strategy: Develop data-driven tools to facilitate improved AFP oversight and management***

The USMS is in the process of upgrading the current manual inventory process. This is one piece of the larger effort to conduct a technological assessment of the existing systems and Asset Forfeiture support functions to ensure all are appropriately leveraged in support of the AFP business processes. A new data strategy will be pursued to leverage modern technology to combine multiple streams of information into a robust business intelligence platform. This will serve as the foundation for the development a more comprehensive data review structure to expand the scope of AFP's business intelligence, as well as internal external dashboard capabilities.

***Strategy: Improve the efficiency and effectiveness of AFP lifecycle management to maximize returns supporting victims, law enforcement, and communities***

The USMS will evaluate the business processes supporting each stage in the asset forfeiture lifecycle which include the custody, management and disposition phases. The Agency will concentrate on the identification of opportunities for business process improvement, standardization, quality assurance, and automation. AFP will reengineer business processes where appropriate to ensure efficient, effective management and disposition of assets in order to maximize returns to the Assets Forfeiture Fund.

***Strategy: Assess and refine the AFP staffing structure, levels, and development across the Agency***

In response to the rapid growth and expansion of asset forfeiture within the USMS, AFP will devise a multi-tiered, comprehensive approach to review district asset forfeiture unit structure, management, programmatic staffing levels, supervisory roles and continued development of AF personnel. AFP will develop a mentoring/leadership program, assess workforce capacity, and concentrate on integrating the Asset Forfeiture Financial Investigator into the District Asset Forfeiture Unit.

**DOJ Priority Goals**

The USMS contributes to DOJ Priority Goal 4 Vulnerable People: "Protect vulnerable populations by increasing the number of investigations and litigation matters concerning child exploitation, human trafficking, and non-compliant sex offenders; and by improving programs to prevent victimization, identify victims, and provide services." Working with federal, state, local, and tribal partners, USMS contributes to the protection of potential victims from abuse and exploitation through increased opened investigations concerning non-compliant sex offenders. The USMS also coordinates enforcement efforts with Interpol National Central Bureau in Washington, D.C., to identify sex offenders engaging in international travel to ensure they are in compliance with their registration.



**Measure:** Non-compliant Sex Offender Investigations

**FY 2015 Target:** 1,841

**FY 2015 Actual:** 1,867

***Strategy: Strengthen USMS investigators' and state and local task force investigator's' acumen through innovative training and communication***

The USMS maintains partnerships with state and local law enforcement agencies and registering officials to coordinate efforts to identify, apprehend, and prosecute non-compliant sex offenders. Sex offender investigation training is held on a routine basis to ensure all relevant USMS personnel are operating efficiently with our partners.

***Strategy: Focus on communities lacking specialized sex offender law enforcement resources to include tribal lands and Department of Defense populations***

In furtherance of DOJ's Vulnerable People Initiative, Sex Offender Investigation Coordinators (SOICs) in tribal regions are continuing to strengthen relationships through improved outreach with tribes and tribal law enforcement, including coordination and assisting with tribal-specific operations. The National Sex Offender Targeting Center (NSOTC) will coordinate with the Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office and the Office of Tribal Justice on tribal issues. The USMS will formalize a customizable approach to assess and mitigate gaps in education, tracking, and enforcement to assist in managing the sex offender population. The NSOTC and SOICs will also expand collaboration efforts with the DOD to assist in identifying and managing their sex offender populations. The USMS will support the DOD with identifying and locating convicted sex offenders who fail to comply with registration requirements following discharge from the US Armed Forces. The USMS will provide guidance and direction to law enforcement, sex offender registries, and DOD personnel in support of the Adam Walsh Act.

***Strategy: Implement accountability-based performance requirements for Sex Offender Investigators***

Annually, SOICs are required to open a minimum of 15 Adam Walsh Act cases, present five cases to the US Attorney's Office for prosecution and conduct two sex offender compliance and enforcement operations.

***Strategy: Improve the communication and coordination with federal, state and local partners regarding international traveling sex offenders***

The USMS will pursue expanding its collaborative partnership with U.S. National Central Bureau INTERPOL, Customs and Border Protection, and Immigration and Customs Enforcement to address sex offenders traveling abroad.



### C. Prisoner Security and Transportation

<i>Prisoner Security and Transportation</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	1,204	1,027	\$253,381
2016 Enacted	1,204	1,027	\$259,301
Adjustments to Base and Technical Adjustments	0	0	(\$2,968)
2017 Current Services	1,204	1,027	\$256,333
2017 Program Increases	1	1	\$7,081
2017 Program Offsets	0	0	\$0
2017 Request	1,205	1,028	\$263,414
<b>Total Change 2016-2017</b>	<b>1</b>	<b>1</b>	<b>\$4,113</b>

<i>Prisoner Security and Transportation - Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	21	21	\$18,929
2016 Enacted	21	21	\$21,515
Adjustments to Base and Technical Adjustments	0	0	\$45
2017 Current Services	21	21	\$21,560
2017 Program Increases	0	0	\$5,293
2017 Program Offsets	0	0	-\$1,193
2017 Request	21	21	\$25,660
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$4,145</b>

#### 1. Program Description

The Prisoner Security and Transportation decision unit is a complex and multi-layered function, both in scope and execution. The USMS is responsible for the national operational oversight of all detention management matters pertaining to individuals remanded to the custody of the Attorney General. The USMS ensures the secure care and custody of these individuals through several processes to include providing sustenance, secure lodging and transportation, evaluating conditions of confinement, providing medical care deemed necessary, and protecting their civil rights throughout the judicial process. Every detainee that comes into USMS custody must be processed by a DUSM. This includes processing prisoners in the cellblock (prisoner intake) and securing the cellblock area; locating confinement that provides adequate detention services which are cost effective, safe, secure, and humane; and transporting prisoners (by ground or air).

#### Prisoner Processing and Securing the Cellblock

Receiving prisoners into custody, processing them through the cellblock, and transporting them are labor-intensive activities. Processing includes interviewing the prisoner to gather personal, arrest, prosecution, and medical information; fingerprinting and photographing the prisoner; preparing an inventory of received prisoner property; entering/placing the data and records into the Justice Detainee Information System (JDIS) and the prisoner file; and sending the electronic fingerprint information to the FBI's Integrated Automated Fingerprint Identification System (IAFIS). The USMS tracks prisoners primarily in JDIS from the point a prisoner is received



until released from USMS custody or sentenced to the Federal Bureau of Prisons (BOP) for service of sentence.

The cellblock is the secured area for holding prisoners in the courthouse before and after they are scheduled to appear in their court proceedings. DUSMs follow strict safety protocols in the cellblocks to ensure the safety of USMS employees and all members of the judicial process, including prisoners. Prior to entrance into the cellblock, DUSMs search prisoners and their belongings to ensure that prisoners and their property are free of contraband. A minimum of two DUSMs are required to be present when: cells are unlocked or entered, when prisoners are moved into or out of the cellblock or holding cell areas, when prisoners of the opposite sex are being handled, or when meals are being served. Female and juvenile prisoners must be separated by sight and sound from adult male prisoners within the cellblock. While in the cellblock, DUSMs must observe the prisoners at least every 30 minutes and must count them every eight hours. DUSMs minimize the amount of time that prisoners exhibiting violent behavior or signs of possible drug overdose, severe mental disorder, or suicidal tendencies are held in the cellblock and closely monitor them during that time. DUSMs also provide meals to prisoners if held in the cellblock during normal lunch or dinner hours.

### Prisoner Transportation

The USMS is responsible for transporting prisoners to and from judicial proceedings. Producing prisoners for court and detention-related activities requires the USMS to coordinate with the U.S. Courts, Probation and Pretrial Service Offices, the BOP, U.S. Attorneys, and other law enforcement agencies. This involves an enormous amount of coordination and scheduling to ensure that the courts' needs are met and that prisoners are moved in a safe and timely manner. Some jails agree to transport prisoners to and from the courthouse at specified rates through an Intergovernmental Agreement (IGA) for guard services; others are transported by the USMS operational personnel and contract guards. DUSMs coordinate with jails to prepare prisoners for transport, search prisoners prior to transport, and properly restrain prisoners during transportation.

In addition, the USMS is responsible for transporting prisoners between detention facilities for attorney visits, to medical appointments when necessary, and to a designated BOP facility after sentencing. As prisoners progress through their court proceedings, districts often move prisoners from one detention facility to another. This is done for a variety of reasons: to locate a prisoner closer to or farther from the courthouse, to accommodate the housing limitations at detention facilities, to take advantage of lower-cost jails which may be further from the courthouse, to place prisoners at facilities better equipped to deal with any medical requirements, or to separate prisoners due to conflict or litigation concerns with other prisoners. When prisoners are wanted in more than one district, the USMS is responsible for transporting prisoners to the requesting district upon completion of the court process in the home district.

Finally, the USMS operates and maintains the fleet of aircraft and ground transportation assets that comprise the Justice Prisoner and Alien Transportation System (JPATS). JPATS is a revolving fund with total operating costs being reimbursed by customer agencies such as the USMS Federal Prisoner Detention (FPD) appropriation and the BOP. JPATS coordinates the movement of the majority of federal prisoners and detainees, including sentenced, pretrial and criminal aliens, in the custody of the USMS and the BOP. JPATS also transports Department of Defense, and state and local prisoners on a reimbursable, space-available basis.



### Prisoner Confinement and Services

The USMS must ensure sufficient resources are available to house and care for the corresponding detainees. To ensure that prisoners are being confined securely and humanely, DUSMs conduct annual inspection of all active Intergovernmental Agreement (IGA) facilities. Additionally, inspections are required before the USMS enters into an IGA with a facility to house prisoners or upon completion of major changes in operations or physical structure of any facility already being used. Detention facility inspections enable the districts and headquarters to identify problem areas early and identify facilities that provide the best value. The USMS established the Conditions of Confinement Program to ensure the safe and humane confinement of federal detainees and to protect their statutory and constitutional rights. There are Detention Facility Inspectors in each district that receive Conditions of Confinement training to ensure that these objectives are met.

The care of federal detainees in private, state, and local facilities and the costs associated with these efforts are funded from the FPD appropriation. FPD resources are expended from the time a prisoner is brought into USMS custody through termination of the criminal proceeding and/or commitment to BOP. Detention resources provide for detainee housing and subsistence, health care and medical guards, intra-district transportation, JPATS transportation, and incidental costs associated with prisoner housing and transportation such as prisoner meals while in transit, prisoner clothing, and parking for government vehicles.



2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE										
Decision Unit: Prisoner Security and Transportation										
RESOURCES										
		Target		Actual		Projected		Changes		Requested (Total)
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]		[\$0]		[\$0]		[\$0]	[\$0]
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		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]		[\$0]		[\$0]		[\$0]	[\$0]
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]		[\$0]		[\$0]		[\$0]	[\$0]
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]		[\$0]		[\$0]		[\$0]	[\$0]
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]		[\$0]		[\$0]		[\$0]	[\$0]
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		1,106	\$253,381	1,027	\$259,301	1,027	\$259,301	1	\$4,113	1,028
			[\$0]	</						

\* Denotes inclusion in the DOJ Quarterly Status Report

\*\* Reported also as part of the USMS Federal Prisoner Detention Appropriation



## **Data Definition, Validation, Verification, and Limitations:**

### **Performance Measures -- Workload:**

#### **1. Average Daily Prisoner Population:**

- a) **Data Definition:** Average Daily Prisoner Population is calculated on a per capita, per day basis.
- b) **Data Validation and Verification:** Data is maintained by the Justice Detainee Information System (JDIS). Monthly data from JDIS relating to paid detention beds is verified each month by completing a comparison, by district, between obligation data being reported out of UJFMS and prisoner program data reported from JDIS.
- c) **Data Limitations:** Limited by the timely entry of prisoner data into JDIS.

### **Performance Measures -- Outputs, Efficiencies, and Outcomes**

#### **2. Percent of Monitoring reviews completed for active IGAs:**

- a) **Data Definition:** Percentage of IGA facilities used by the USMS to house prisoners with a completed monitoring review.
- b) **Data Validation and Verification:** Each year USMS personnel run reports comparing the facilities that should be inspected to those that were inspected.
- c) **Data Limitations:** Limited by the timely entry of monitoring review results and identifying the appropriate facilities.

#### **3. Total Prisoner Productions:**

- a) **Data Definition:** Total prisoners produced data combines both the USMS District counts and DC Superior Court counts, and includes the number of times prisoners are produced for judicial proceedings, meetings with attorneys, or transported for medical care, between offices and between detention facilities.
- b) **Data Validation and Verification:** USMS District data is maintained by JDIS. DC Superior Court data is maintained by a locally managed database and is updated daily. Please note DC Superior Court will be transitioning to JDIS in the near future.
- c) **Data Limitations:** Limited by the timely entry of prisoner data into JDIS and DC Superior Court's database, as appropriate. For DC Superior Court, more than 95% of prisoner productions that occur each day are entered into the system on the same day they occur.

#### **4. Average Detention Cost (Housing, Medical, and In-District Transportation):**

- a) **Data Definition:** Total detention costs represent the aggregation of paid jail costs and health care costs on a per capita, per day basis.
- b) **Data Validation and Verification:** Data reported is validated and verified against monthly reports describing district-level jail utilization and housing costs prepared by the USMS. In accordance with generally accepted accounting principles, the USMS routinely monitors its financial data for new obligations and de-obligations.



- c) **Data Limitations:** Maintaining prisoner movement data is a labor-intensive process. The reliability of the reported data is often compromised by time lags between the actual movement of prisoners and data entry of those events into JDIS. Accordingly, it is often necessary to delay reporting of official statistics several weeks to ensure that prisoner movement records have been properly updated. Data reported reflect the anticipated cost of services provided to USMS prisoners. In the event that the actual cost is different from the anticipated cost, additional funds may need to be obligated or obligated funds, de-obligated. Due to the time lag between the rendering of services and the payment of invoices, several weeks may lapse before the actual cost of health care services provided to an individual prisoner can be determined.



PERFORMANCE MEASURE TABLE																
Decision Unit: Prisoner Security and Transportation																
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017	
			Actual		Actual		Actual		Actual		Actual		Target		Target	
3.3	Performance Measure: Workload	1. Average daily prisoner population	N/A		N/A		59,542		55,420		57,484	51,440		52,644		55,338
3.3	Performance Measure: Outcome	2. Percent of monitoring reviews completed for active IGAs					Established Baseline		94%		98%	98%		98%		98%
3.3	Performance Measure: Outcome	3. Total prisoner productions	N/A		N/A		1,018,693		940,636		865,506	850,938		820,800		833,447
3.3	Performance Measure: Outcome	4. Average detention cost (housing, medical, and in-district transportation)*. **	N/A		N/A		\$80.33		\$82.92		\$84.49	\$85.59		\$86.46		\$88.21
N/A = Data unavailable																
* Denotes inclusion in the DOJ Quarterly Status Report																
** Reported also as part of the USMS Federal Prisoner Detention Appropriation																



### 3. Performance, Resources, and Strategies

The USMS maintains the integrity of the federal judicial system by maintaining the custody, protection, and security of prisoners and ensuring that criminal defendants appear for judicial proceedings. Efficient management of detention resources necessitates that the USMS continuously analyze the courts' need for prisoners in relation to detention facility location and cost. This evaluation results in prisoners strategically being moved to various detention facilities as their cases progress through the judicial process. Prisoners are moved to closer facilities when they are more often needed to appear for court (for example, pretrial prisoners). Prisoners are moved to more distant facilities (which are often less costly) as their need to appear in court decreases. Throughout this process, the USMS must annually review utilized detention facilities to ensure that conditions of confinement are humane and provide adequate security.

**Measure:** Average Detention Cost

**FY 2015 Target:** \$84.49

**FY 2015 Actual:** \$85.59

***Strategy: Develop an automated district detention management report that captures each stage of detention from time of arrest to the time of release***

Various prisoner court actions have minimal time requirements under the Speedy Trial Act. Utilizing these time lines as a baseline, the USMS will establish benchmarks for prisoner time at different stages of detention. The corresponding performance measures will be incorporated into management reports. Similar to eDesignate reports, the metrics will assist the districts in identifying problem areas leading to increased time in detention. Districts will then work with the local detention forum or specific court offices for resolution and to manage the prisoner population in a more cost-effective manner.

***Strategy: Develop defined business practices with BOP to better track, manage, and utilize federal detention space within BOP***

The USMS will work with BOP to create a common operating system to optimize detainee placement into the approximately 12,500 BOP Federal Detention beds allocated for the USMS. Maximizing utilization of BOP allocated federal beds is critical to containing detention costs. Currently, the USMS and BOP track populations in federal beds separately, often leading to conflicting counts; requiring constant manpower to resolve the discrepancies. Developing a common operating picture through a defined allocation at each facility and tracking that utilization within a single shared system will reduce workload and assist in managing bed space, thus achieving optimum usage. In addition to creating an automated tracking mechanism, the USMS will partner with the BOP to identify potential problem areas where local procedures negatively impact utilization, daily court operations, and transportation. BOP Wardens' participation in local detention forums will result in better utilization.

***Strategy: Develop a district-level detention planning capability***

The USMS will further develop district-level planning groups. In 2009, the Office of the Federal Detention Trustee (OFDT) and the USMS worked jointly with the Judiciary on "Housing Prisoners within a Reasonable Distance from the Courthouse." This project established the concept of creating interagency district detention committees consisting of the Courts, United States Attorneys, and BOP (for those districts with BOP detention facilities) to resolve detention issues and create strategic plans to effectively manage



detention at the district level. The USMS will partner with district detention stakeholders to bring this concept to reality. Additionally, the USMS will further assess the need for technology to support interagency collaboration and long-term detention planning. The USMS will also assess committee membership to determine which additional detention partners could add value and produce increased problem resolution. Formalizing a district level group to resolve issues and tactically plan future needs will help to prevent bed space and transportation cost issues in the future.

***Strategy: Assess the feasibility and cost effectiveness of implementing strategically sourced detention services***

The USMS will continue to work with the BOP and ICE to take advantage of economies of scale when purchasing services related to detention operations. Additionally, the USMS will assess expanding the use of Section 119 authority for detention service contracts of longer duration for the services being acquired. Longer duration contracts provide for better pricing and continuity of services related to the detention of prisoners.

***Strategy: Assess the feasibility of establishing regional post sentencing receiving centers***

In the past the USMS, OFDT, and JPATS established Regional Transfer Centers (RTCs), and a Federal Transfer Center (FTC) to facilitate movement of prisoners to their designated BOP facility. Working with other federal detention agencies, the USMS will study the viability of a regional post-sentencing receiving center model where prisoners are removed from the district upon sentencing and placed within a regional reception center for further processing and disposition. This effort focuses on prisoners within the sentence-to-release phase of the federal detention management system life-cycle. Moving sentenced prisoners to receiving centers will free up much needed in-district court city detention beds, improve the centralized positioning of prisoners for further disposition, support targeted designations, and centralize prisoner movement by JPATS. In addition, these efforts will address the current bifurcated roles and responsibilities between the USMS and JPATS with regard to out-of district and in-district transportation of sentenced prisoners to BOP custody. These facilities may be strategically sourced to take advantage of economies scale with allocated space for other agencies, thereby increasing the overall coordination and integration of prisoner handling post sentence phase of the life-cycle. The USMS will assess the feasibility of converting current RTC model into a regional reception center model and identify existing gaps.



**D. Protection of Witnesses**

<i>Protection of Witnesses</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	207	146	\$35,715
2016 Enacted	207	146	\$36,734
Adjustments to Base and Technical Adjustments	0	0	-\$371
2017 Current Services	207	146	\$36,363
2017 Program Increases	0	0	\$976
2017 Program Offsets	0	0	\$0
2017 Request	207	146	\$37,339
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$605</b>

<i>Protection of Witnesses-Information Technology Breakout (of Decision Unit Total)</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	3	3	\$2,704
2016 Enacted	3	3	\$3,073
Adjustments to Base and Technical Adjustments	0	0	\$6
2017 Current Services	3	3	\$3,079
2017 Program Increases	0	0	\$750
2017 Program Offsets	0	0	-\$170
2017 Request	3	3	\$3,659
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$586</b>

**1. Program Description**

The Witness Security Program (WSP) provides protection for government witnesses whose lives are threatened as a result of their testimony against drug traffickers, terrorists, organized crime members, and other major criminals. The program also provides physical security during the trial proceedings and assistance to create new identities and relocate witnesses and their families after the trial. The successful operation of the WSP is widely recognized as providing a unique and valuable tool in the government's war against organized crime, drug cartels, violent criminal gangs, and terrorist groups.

Three DOJ components work collaboratively to administer the WSP. The Criminal Division's Office of Enforcement Operations authorizes the entry of witnesses into the program. The BOP protects witnesses incarcerated in federal prison facilities. For civilian witnesses and their families, the USMS provides protection, relocation, re-identification and assistance with housing, medical care, job training, and employment until they become self-sufficient.



2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Protection of Witnesses											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
TYPE	STRATEGIC OBJECTIVE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)											
		191	\$35,715 [\$1,103]	147	\$35,652 [\$1,103]	147	\$36,734 [\$782]	0	\$605 [\$0]	147	\$37,339 [\$782]
	PERFORMANCE										
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		191	\$35,715 [\$1,103]	147	\$35,652 [\$1,103]	147	\$36,734 [\$782]	0	\$605 [\$0]	147	\$37,339 [\$782]
Performance Measure: Workload	3.2		18,652		18,685		18,760		70		18,830
Performance Measure: Output	3.2		3,185		2,477		2,560		(10)		2,550
Performance Measure: Outcome	3.2		223		152		138		(13)		125
* Denotes inclusion in the DOJ Quarterly Status Report											



## Data Definition, Validation, Verification, and Limitations:

### Performance Measures – Workload

#### 1. Total number of witness security program participants:

- a. **Data Definition:** Total Witness Security Program participants are the total number of participants, including immediate family members, currently in the program.
- b. **Data Validation and Verification:** Case managers ensure the accuracy of data submitted to headquarters.
- c. **Data Limitations:** Case management provides data on a monthly basis.

### Performance Measures – Outputs, Efficiencies, and Outcomes

#### 2. Protective services required/provided for witnesses (includes court productions):

- a. **Data Definition:** Protected services required/provided for witnesses is defined as witness productions, prisoner witness transports, prisoner witness family visits, preliminary interviews, temporary relocations, documentation initiations, documentation services (delivery-other), and breach investigations.
- b. **Data Validation and Verification:** Regional managers ensure the accuracy of data submitted to headquarters.
- c. **Data Limitations:** Witness Security Division (WSD) Regions provides data to headquarters on a monthly basis.

#### 3. Security breaches mitigated:

- a. **Data Definition:** An action taken to mitigate a reported or detected event capable of compromising a protected witness' identity, location or general security.
- b. **Data Validation and Verification:** Validation occurs when the actions taken have been documented, reviewed, and approved. Verification occurs when internal audits are conducted to identify the efficiency and effectiveness of the actions taken.
- c. **Data Limitations:** The total number of security breaches is dependent upon the number of breaches reported or detected. Actions to mitigate the security breaches only occur when security breaches are detected or reported. A substantial number of security breaches are believed to be unreported or undetected.



PERFORMANCE MEASURE TABLE																	
Decision Unit: Protection of Witnesses																	
Strategic Objective	Performance Report and Performance Plan Targets		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		
			Actual		Actual		Actual		Actual		Target	Actual		Target			
3.2	Performance Measure: Workload	1. Total number of witness security program participants	N/A		N/A		18,516		18,574		18,652		18,685		18,760		18,830
3.2	Performance Measure: Output	2. Protective services required/provided for witnesses (includes court productions)	N/A		N/A		3,334		3,629		3,185		2,477		2,560		2,550
3.2	Performance Measure: Outcome	3. Security breaches mitigated*	N/A		N/A		256		210		223		152		138		125
N/A = Data unavailable																	
* Denotes inclusion in the DOJ Quarterly Status Report																	



### 3. Performance, Resources, and Strategies

The funding is necessary to ensure that critical protective services are provided to protected witnesses testifying in direct support of significant DOJ prosecutorial efforts against organized crime, international drug trafficking organizations, violent street gangs, and international terrorist groups. The USMS continues to examine WSP methodologies to ensure that effective protection and security services are provided to protected witnesses and authorized participants while also exercising cost efficiencies.

**Measure:** Security Breaches Mitigated

**FY 2015 Target:** 223

**FY 2015 Actual:** 152

***Strategy: Identify and address problems impeding successful relocation and employment***

The USMS believes a substantial number of security breaches are unreported or undetected. One of the efforts underway to support this strategy is the development of a protocol for orientation to address standards of conduct to minimize security breaches. Additionally, training inspectors to identify and prioritize security breaches ensures mitigation efforts are directed toward the most egregious breaches. Finally, the USMS will implement action plans to mitigate broad categories of systemic security breaches. The long term results of these efforts will be a reduced cost and increase in security for the program and the protectees.



## E. Tactical Operations

<b><i>Tactical Operations</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	177	174	\$41,428
2016 Enacted	177	174	\$45,592
Adjustments to Base and Technical Adjustments	0	0	-\$391
2017 Current Services	177	174	\$45,201
2017 Program Increases	0	0	\$3,475
2017 Program Offsets	0	0	\$0
2017 Request	177	174	\$48,676
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$3,084</b>

<b><i>Tactical Operations -Information Technology Breakout (of Decision Unit Total)</i></b>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	3	3	\$2,704
2016 Enacted	3	3	\$3,073
Adjustments to Base and Technical Adjustments	0	0	\$6
2017 Current Services	3	3	\$3,079
2017 Program Increases	0	0	\$931
2017 Program Offsets	0	0	-\$170
2017 Request	3	3	\$3,840
<b>Total Change 2016-2017</b>	<b>0</b>	<b>0</b>	<b>\$767</b>

### 1. Program Description

The Tactical Operations decision unit includes special operations and emergency management.

#### Special Operations

The USMS Special Operations Group (SOG) supports the DOJ and other government agencies with a highly-trained, rapidly deployable force of law enforcement officers for tactical response. SOG is a unit of 80-100 volunteer DUSMs who must meet high qualification standards and complete rigorous training in specialties such as high-risk entry, explosive breaching, sniper/observer, rural operations, evasive driving, less-than-lethal munitions, waterborne operations, and tactical medical support. SOG supports all U.S. judicial districts by providing assistance in high-risk, sensitive law enforcement operations including protective details, national emergencies, civil disturbances, and national disasters. Due to the extensive training of SOG members, the unit is often called upon to train military, federal, state, local, and foreign law enforcement groups in various tactical specialties. SOG also oversees the Operational Medical Support Unit (OMSU). The OMSU program manages, trains, and equips USMS DUSMs who presently possess an Emergency Medical Technician (EMT) or EMT-Paramedic certification. The OMSU comprises approximately 15 Special Operations Group Medics and 75 Collateral DUSM Medics.

Based at Camp Beauregard, Louisiana, a major staging area for Federal Emergency Management Agency (FEMA) disaster response in the Southeast and a geographically central location for domestic operations, the Special Operations Group Tactical Center (SOGTC) is able to provide a



rapid response throughout the country. From this base, SOG deploys its fleet of armored vehicles, specialized equipment, tactical operators, and medics in support of domestic USMS operations such as the 15 Most Wanted Fugitive Program investigations, fugitive task forces, terrorist trials and other high-threat or high-profile judicial proceedings, motorcade protection for high-value individuals, and execution of court orders relating to the seizure of assets belonging to militia groups, domestic terrorist groups, and other anti-government organizations.

The USMS is specifically relied upon to conduct national security operations on behalf of various U.S. government entities due to its broad authority and jurisdiction. SOG is selected due to the sensitive, covert nature of these missions requiring elevated security clearances and specific training, equipment, and tactical assets.

The USMS also participates in international Stabilization and Reconstruction programs, working closely with DOJ, DOD, and Department of State personnel. SOG developed the concept of Judicial Security for the Afghan judiciary and court facilities and provided technologically-advanced security equipment and programs to improve judicial and witness security, helping to lay the foundation for a more effective judicial system and assisting in the stabilization of the Afghanistan government.

### Emergency Management and Response

The USMS responds to national emergencies and domestic crises with a cadre of resources. All USMS operational missions that fall into this category are coordinated through the USMS Communications Center and the Emergency Operations Center (EOC). The Communications Center operates 24 hours-a-day, 7 days-a-week to ensure inter-agency and intra-agency flow of communication. It provides informational assistance to DUSMs in the field who are tracking fugitives, developing leads, and confirming warrants. It also has the ability to receive, track, and disseminate classified information relevant to the USMS. All significant incidents such as shootings in the line of duty, employee injury or death, assaults/attempted assaults of an individual under USMS protection, deaths of prisoners in USMS custody, escapes of federal prisoners, major arrests, and district emergencies are reported to the Communications Center. The Communications Center then notifies the appropriate personnel and districts and ensures that the proper action is taken. The EOC is also activated during emergency incidents involving a coordinated agency-wide response. This includes responses under the federal government's National Response Framework. The EOC is a critical element to ensure coordination and oversight of USMS deployments during emergencies, particularly when other government agencies are also involved.

Emergency management officials maintain the Continuity of Operations (COOP) plan for the USMS Headquarters and coordinate the COOP plans of all 94 districts in accordance with Federal Continuity Directives and DOJ Order 1900.8.

The USMS also maintains four Incident Management Teams (IMTs), which are trained under the principles and doctrines of the National Incident Management System and the Incident Command System, in accordance with Homeland Security Presidential Directive 5. These teams deploy in support of USMS operations when an incident or event exceeds the capabilities of the district's or division's resources or when multiple districts or divisions are affected.



2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE									
Decision Unit: Tactical Operations									
RESOURCES		Target		Actual		Projected		Changes	
		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes	
		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		200	\$41,428 [\$13,774]	209	\$41,555 [\$13,774]	211	\$45,592 [\$12,197]	211	\$48,676 [\$12,197]
PERFORMANCE		FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes	
TYPE	STRATEGIC OBJECTIVE	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Program Activity		200	\$41,428 [\$13,774]	209	\$41,555 [\$13,774]	211	\$45,592 [\$12,197]	211	\$48,676 [\$12,197]
Performance Measure: Output	1. Number of high-threat and emergency situations supported through special operations and assignments	50		120		105		N/A	Retired
Performance Measure: Output	2. Number of special operational hours dedicated to high-threat and emergency situations.	N/A		N/A		49,679		0	49,679
N/A Data unavailable									



**Data Definition, Validation, Verification, and Limitations:**

**Performance Measures – Outputs, Efficiencies, and Outcomes**

**1. Number of high-threat and emergency situations supported through special operations and assignments – Retired: Transition to number of special operation hours dedicated to high-threat and emergency situations**

a. **Data Definition:** This represents the number of times a special occurrence or event happened where special operations and assignment resources and/or staff were deployed in response.

b. **Data Validation:** Deployments are validated against financial and special assignment data.

c. **Data Limitation:** Deployments are tracked via a manual process.

**2. Number of special operation hours dedicated to high-threat and emergency situations – New (see note above)**

a. **Data Definition:** The number of hours USMS SOG members expended in response to a high threat or emergency event.

b. **Data Validation:** Hours are validated against financial and special assignment data.

**Data Limitation:** Hours are tracked via a manual process.



PERFORMANCE MEASURE TABLE														
Decision Unit: Tactical Operations														
Strategic Objective	Performance Report and Performance Plan Targets	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017					
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target					
3.2	1. Number of high-threat and emergency situations supported through special operations and assignments	59	52	75	113	59	120	105	Retired					
3.2	2. Number of special operational hours dedicated to high-threat and emergency situations.	N/A	N/A	N/A	N/A	N/A	N/A	49,679	49,679					



### 3. Performance, Resources, and Strategies

The USMS strives to provide effective assistance to all levels of government during emergencies and disasters and at times of heightened law enforcement requirements. The USMS deploys personnel and equipment in support of extraordinary district requirements, ensuring adequate resources are provided to maintain the integrity of the judicial process. The USMS will attempt to: improve its capability to deploy personnel and equipment in response to terrorist acts, natural disasters, and other external missions directed by the Attorney General; maintain operational readiness for efficient movement of people and equipment; and coordinate efforts and increase communication lines between the Strategic National Stockpile Security Operations Unit and the Centers for Disease Control and Prevention to ensure adequate dissemination of intelligence information to thwart or respond to terrorist activities.

**Measure:** Number of high-threat and emergency situations supported through special operations and assignments

**FY 2015 Target:** 59

**FY 2015 Actual:** 120

***Strategy: Develop a strategy to enable a rapid response of the Mobile Command Centers (MCC)***

The USMS required the ability to deploy MCC units within a reasonable response time for unplanned incidents. Each MCC was deployed to maximize the geographical response area while minimizing the deployment time. MCC operators were recruited, trained and equipped within close proximity to an MCC to ensure availability and rapid deployment. The result is an increased ability to respond to unplanned incidents, lower operating costs and an increase in MCC deployments.

***Strategy: Assess Special Operations Group (SOG) capabilities for rapid deployment to all USMS missions as required***

The increase risk to USMS officer safety in executing our mission requires the need for SOG's expertise across the agency. To mitigate this risk the USMS is utilizing SOG resources, training facilities and methodologies to support the Law Enforcement Safety Training Program (LESTP). SOG assisted in the development of consistent, sustainable LESTP training and direct medical support of USMS missions within the districts. The result is enhanced district operations by utilizing available SOG equipment, tactical and medical expertise, and conduct district based reoccurring training.

***Strategy: Expand the USMS' medical response capability and ensure adequate medical support for the mission***

The USMS will assess resource requirements to train, certify, equip, and maintain a proficient medical support unit and will develop a plan to ensure adequate medical resources are available to support the USMS mission. The importance of these trained experts to enhance officer safety will be stressed throughout the USMS. The unit will be integrated into USMS operations in order to mitigate risk to DUSMs involved in high risk operations and training.



## V. Program Increases by Item

Item Name:	<u>Deputy U.S. Marshals Life and Safety</u>
Strategic Goal:	<u>3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice the Federal, State, Local, Tribal and International Levels</u>
Strategic Objective:	<u>3.2 Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence</u>
Budget Decision Unit(s):	<u>Judicial and Courthouse Security</u> <u>Fugitive Apprehension</u> <u>Prisoner Security and Transportation</u> <u>Protection of Witnesses</u> <u>Tactical Operations</u>
Organizational Program:	<u>Cyclical Equipment Replacement</u>
Program Increase: Positions	<u>0</u> Agt/Atty <u>0</u> FTE <u>0</u> Dollars <u>\$10,037,000</u>

### Description of Item

The USMS requests **\$10,037,000** for the cyclical replacement of body armor, radios, vehicles, surveillance equipment, as well as Special Operations Group (SOG) selection, specialty and mandatory recertification and equipment. This funding would enable the USMS to institutionalize the replacement cycle so that equipment is replaced on a regular annual basis.

### Justification

The USMS received approximately 1,000 new positions between 2009 and 2010. The positions came with modular costs to include vehicles, radios, computer and protective equipment. In subsequent years, the USMS never received full funding for these positions. As a result, rising mandatory costs, such as salary/benefits and rent have eroded base funding for equipment associated with these new hires. To sustain the positions, the USMS loses its flexibility to fund cyclical replacement needs going forward. The USMS will continue to implement cost cutting efforts in all areas wherever possible.

### LAND MOBILE RADIOS (LMR) - \$2,683,000

Land mobile radios are vital for operational communications within the USMS and are critical in all officer safety scenarios. The USMS issues dual band equipment that is interoperable with all other federal components, as well as state and local law enforcement partners and agencies throughout the country.



The request would fund a five-year replacement cycle to ensure that deputies have reliable and encrypted communications, and that the USMS stays abreast of the latest technology. Maintaining a reliable replacement cycle ensures that the equipment stays within the manufacturer's five-year serviceable schedule. Retaining models past five years is costly because parts may not be available. In the worst case, manufacturers stop producing spare parts for models outside the 10-year production run.

The USMS requests **\$2,683,000** to upgrade outdated LMR equipment on a five-year schedule. Each deputy is issued a handheld radio at a cost of \$8,400 each and accessories such as batteries, antennas, and earpieces are \$900 per deputy. Every vehicle is equipped with a mobile radio at a cost of approximately \$9,400 each to include installation.

Item	Quantity	Unit Cost	Total Cost	Replacement Cycle	Annual Replacement Cost
Handheld radios	735	\$8,400	\$6,174,000	5 years	\$1,234,800
Handheld radio accessories	735	\$900	\$661,500	5 years	\$132,300
Mobile radios, access and install	700	\$9,400	\$6,580,600	5 years	\$1,316,000
<b>Total</b>					<b>\$2,683,100</b>

Effective and encrypted tactical communications capabilities are essential to the safety of DUSMs during the performance of their duties. Funding this initiative would ensure that the LMR program within the USMS stays at the forefront of tactical communications technology and is able to provide operational personnel with the best possible communications solution during the execution of dangerous missions.

The request would allow the USMS to purchase 148 handheld radios and 140 mobile radios each year. The USMS assumes a replacement cycle of five years.

**SPECIAL OPERATIONS GROUP (SOG) SELECTION, SPECIALTY AND MANDATORY RECERTIFICATION TRAINING - \$2,263,000**

The USMS requests **\$2,263,000** to establish base funding to support annual, recurring requirements for the SOG Selection Course, Specialty Training, and Mandatory Recertification Training (MRT) as well as Law Enforcement Safety Training Program (LESTP) initiatives and related equipment.

Item	Unit Cost	Quantity	FY 2017 Request
Mandatory Recertification Training (MRT)	500,000	2	\$1,000,000
Specialty Training Recertification	287,000	1	\$287,000
SOG Selection Course	300,000	1	\$300,000
Operational, Training and Protective Equip.	540,000	1	\$540,000
Specialty Training and Operational Vehicles	135,475	1	\$136,000
<b>Total</b>			<b>\$2,263,000</b>



The USMS SOG is a highly trained tactical unit that conducts specialty operations both within and outside the United States. SOG is deployed to support the DOJ and the USMS operations, which span the range of federal law enforcement missions. SOG's specialty operations support fugitive apprehension, violent sex offender targeted missions, terrorist trials, high-threat prisoner movements, witness security operations, national emergencies, and other missions as ordered by the U.S. Attorney General. Other missions include, but are not limited to, civil disorders, protection of at-risk health facilities and staff, large scale seizures, actions against anti-government and militia groups, and stability and reconstruction efforts. SOG support occurs when a situation is beyond the capability of USMS districts or divisions.

SOG members must maintain the necessary skills to provide tactical support to the USMS and DOJ. The USMS complies with the National Tactical Officers Association (NTOA) training standard of 192 training hours annually per SOG member. It is imperative that SOG members are properly trained to handle the most complex and high-risk missions. A well-trained tactical unit increases officer safety and maximizes efficiency when executing high-risk operations.

Membership in SOG is voluntary. DUSMs interested in joining must submit a comprehensive application package which is graded and scored among all applicants. Once selected to attend training, candidates undergo a physically rigorous and mentally challenging SOG Selection Course. SOG Selection is a 30-day course where DUSMs are trained in all aspects of SOG equipment, tactics and SOG standard operating procedures. Each applicant is evaluated in various critical skills to ensure they meet the higher standards of SOG. The course tests DUSMs under physical and mental stress to simulate real world operations in austere environments. On average, SOG Selection courses begin with 30 to 50 candidates. The number varies depending on the number of qualified applicants. About 30% of the candidates successfully complete the training and become members of the unit. Failure to complete the course is usually attributed to failure to meet minimum firearms qualification scores, injuries, or voluntarily leaving training for personal reasons. Tenure in SOG varies greatly, from one year to 25 years. As the number of SOG members diminishes, the USMS must conduct annual SOG Selection Training to maintain a force that can manage multiple, simultaneous missions. Those who complete the SOG Selection Course must also be fully equipped and trained in additional specialty areas.

The USMS SOG participated in the Rule of Law, Stability and Reconstruction Programs in Iraq and Afghanistan through reimbursable agreements with DOS and DOD from 2004 through 2014. By enhancing judicial security in these countries, SOGs efforts allowed fair and transparent court processes. The USMS relied on this funding to support USMS SOG training and equipment; however, the SOG mission in Iraq ended in 2011 and the SOG mission in Afghanistan was terminated in September 2014. The requested increase is the minimum required to maintain operational readiness now that the USMS no longer receives DOS and DOD funding.

The USMS has no dedicated base funding to support the requirements for the SOG Selection Course and related equipment; MRT; Specialty Training and recertification; operational training and protective equipment; and operational vehicles. SOG training and equipment costs are separate from the normal cost module for new positions. Funding for training includes travel, per diem, food, contractor administrative support, instructor overtime, and training supplies including ammunition and targets. Funding for equipment includes personal protective



equipment, uniforms, firearms, operational ammunition, night vision devices, breaching equipment, communication equipment, and armored vehicles.

The USMS trains SOG deputies at the Special Operations Group Tactical Center (SOGTC), within the confines of Camp Beauregard, the Louisiana Army National Guard (LANG) base in Pineville, Louisiana. The USMS leases four separate facilities from LANG totaling approximately 120,000 square feet on 200 acres of property. SOG is the only tactical unit within the USMS. Through its 85 collateral SOG members and its 75 Operational Medical Support Unit Deputy Medics, the USMS provides immediate regional support for daily operations across the country. SOG members participate in fugitive intensive strike teams targeting violent federal and state fugitives, to include sex offenders. These tactically-trained Deputies help reduce the number of violent felons on the street correlating to the reduction of trafficking, the use of illegal drugs, and the diversion of licit drugs. SOG operations directly support initiatives to reduce violent crime, take guns off the street and target violent criminal gangs.

The specialized areas of instruction during SOG training include sniper/observer, explosive and manual breaching, evasive driving, waterborne operations, less-lethal chemical and impact munitions and weaponry, tactical medicine, high angle insertion, weapons of mass destruction, various types of instructor training, civil disturbance, and officer safety training among others. SOG trains several times a year to comply with national standards for training of tactical and medical personnel.

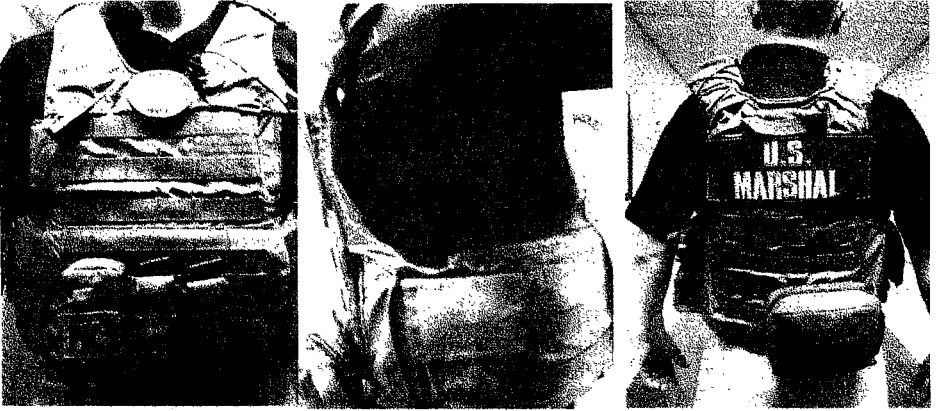
The core of the SOG workforce comprises highly trained criminal investigators who are activated and respond to SOG missions when necessary. When not on a SOG deployment, these criminal investigators are assigned full-time to USMS districts across the nation, where they perform their normal duties as DUSMs. SOG's pool of well-trained, instructor-certified DUSMs provides district and regional training to mitigate risk to DUSMs in the field. This includes, but is not limited to, medical training, advanced firearms training and qualification, Active Shooter/Active Threat training, tactical entry training and Taser certification.

The USMS is specifically sought after to conduct national security operations on behalf of various U.S. Government entities due to its unequaled authority and jurisdiction. The USMS SOG is often chosen for these national security operations due to the sensitive, covert nature of these missions, which require elevated security clearances and specific training, equipment and tactical assets. These programs, which directly affect the ability to prevent terrorism and promote the Nation's security consistent with the rule of law, will be at risk if this initiative is not properly funded to train and equip its personnel.

#### BODY ARMOR - \$1,330,000

The USMS currently issues a body armor kit that consists of an Urban Assault Vest (UAV), Undercover Vest (UC), and Multi-mission Armor Carrier (MMAC) plate carrier. The kit is issued to every operational employee in the agency.





Pictured above is the Urban Assault Vest (UAV) typically used for task force operations and protective security details. The UAV includes a nylon vest (in green) and flexible armor panels inserted inside the nylon vest.



Pictured above is the Undercover Vest (UC) typically used in courtroom hearings or during surveillance operations. The UC includes a polyester (white) covering and flexible panels are inserted inside. The UC is worn underneath street clothes.





Pictured above is the Multi-mission Armor Carrier (MMAC) plate carrier. This is not a stand alone unit. The MMAC is a nylon vest and rigid ballistic plates are inserted inside the front and back of the vest. The MMAC is worn on top of the Undercover Vest and provides maximum protection. The MMAC is used for high-risk fugitive apprehensions and judicial security events.

Each body armor kit is measured to fit a specific individual and cannot be re-used by another individual because it is precisely measured. The USMS purchased and issued the majority of the vests in 2012. The USMS replaces body armor every five years which is also the length of the manufacturer's warranty.

In 2013, the USMS conducted body armor testing to determine if the USMS should use the five-year warranty period as the agency's replacement cycle. Using body armor panels that were less than five years old, the USMS determined that the new armor performed exceptionally well, with no penetration and low back-face deformation. The USMS also tested armor that was over five years old. Tests resulted in 11 penetrations out of 84 shots taken, and sufficient back-face deformation. Back-face deformation is the impact of the bullet on the back side of the armor. Although the bullet does not penetrate the armor, the bullet's deformation would create significant blunt force trauma to the person wearing the armor.

In addition to examining the results of the body armor tests, the USMS also contacted other DOJ agencies regarding their body armor replacement. DEA, FBI, and ATF confirmed that in general, their replacement cycles were consistent with the USMS replacement cycle. The USMS will continue to work with other DOJ components to test body armor based on National Institutes of Justice (NIJ) standards. Additional tests will exceed NIJ standards. For example, the USMS plans to add testing protocols to stop bullet fragments, water submersion, and climate variations.

Ballistic plates (both the flexible and rigid plates) are replaced every five years. The nylon carrier is replaced every 10 years. Establishing a normalized five-year replacement cycle for plates and a 10-year cycle for carriers requires **\$1,330,000**.



Item	Qty	Unit Cost	Total Cost	Replacement Cycle	Annual Replacement Cost
Ballistic Plates and Panels	4,000	\$1,100	\$4,400,000	5 years	\$880,000
Nylon Carriers	4,000	\$500	\$2,000,000	10 years	\$200,000
New Deputies	100	\$2,500	\$250,000		\$250,000
<b>Total</b>					<b>\$1,330,000</b>

#### ELECTRONIC SURVEILLANCE EQUIPMENT - \$1,761,000

Technical surveillance equipment requires a consistent funding source to keep pace with the commercial wireless broadband industry. The USMS requests **\$1,761,000** for the annual replacement of surveillance equipment to replace or upgrade its capabilities in the cellular surveillance arena as technology advances. Without a sound cyclical replacement, the inventory could reach block obsolescence once the carriers convert to new technology. Without annual replacement funding, the USMS may forfeit its internationally-recognized technical investigative expertise and suffer a corresponding degradation to the success of its investigative responsibilities.

The USMS Technical Operations Group's (TOG) missions involve lawful intercept of landline and cellular telephones, cellular geo location, GPS and radio frequency tagging/tracking, computer exploitation, computer forensics, and internet investigations including the lawful intercept of electronic mail and voice over internet protocol (VOIP).

The requested increase will maintain and improve electronic and technical surveillance capabilities within the USMS. These investigative techniques enhance investigative capabilities. USMS personnel have used this technology to capture the world's most wanted drug traffickers with no loss of life.

The lifecycle of surveillance equipment is dependent upon technological advances in cellular protocols, particularly those used in the commercial wireless broadband industry. Technological changes in the industry also drive the requirement to update or replace surveillance equipment. Examples of such change include Sprint and T-Mobil shutting down older technology and migrating to new networks; Verizon selling smartphones since 2014 that only operate in the 4G Long Term Evolution (LTE) protocol; and AT&T announcing its intention to eliminate global system for mobile (GSM) technology by 2017. Although LTE was intended to be the new standard for wireless protocols, carriers have already designed variations of that protocol. According to industry analysts, a separate LTE Advanced protocol may be on the horizon. Also, the President's initiative to open 500 megahertz of additional spectrum to commercial broadband carriers will greatly expand frequencies on those networks. The USMS's equipment will need to be upgraded in order to maintain current capabilities.

#### VEHICLE REPLACEMENT - \$2,000,000

The USMS requests at least **\$2,000,000** to fill critical shortages in the districts, and replace vehicles that have exceeded the USMS Vehicle Replacement Standards:



- Sedan Replacement Cycle – 5 years; 75,000 miles
- SUV/PU/Vans Replacement Cycle – 7 years; 75,000 miles
- Armored Vehicle Replacement Cycle – 7 years

There are four areas of concern that require vehicle replacement:

1. Vehicles which have met the age and mileage replacement standards. These vehicles have higher mileage resulting in higher maintenance costs.
2. Vehicles that have not met age replacement standards but with excessive mileage. These vehicles incur higher maintenance costs as well.
3. Aged vehicles that have not yet met current replacement standards due to lower mileage. These vehicles tend to have higher fuel consumption rates than current makes/models.
4. Vehicle shortages throughout the USMS districts. Specifically, there are critical fills in the districts which are not assigned motor pool vehicles due to recent funding constraints. Motor pool vehicles serve as back up vehicles in case of unforeseen accidents or mechanical issues. Due to size, 14 out of 94 districts are not assigned a vehicle motor pool.

The USMS fleet's current average mileage is 51,105 miles and average age is FY 2009. The average replacement cost is \$26,000 per vehicle.

The requested funding will allow the USMS to establish a consistent replacement schedule that will provide a reliable funding source. The below table show the calculation of annual replacement cost for the USMS' entire district fleet by category:

Category	Inventory Count	Unit Cost	Inventory \$	Replacement Standard	Annual Replacement Cost
Sedans	1,159	\$24,000	\$27,816,000	5 yrs / 75,000 miles	\$5,563,000
SUV/Pickup/Van	2,478	\$28,500	\$70,623,000	7 yrs / 75,000 miles	\$10,089,000
Armored Vehicle	4	\$117,000	\$468,000	7 yrs	\$67,000
Vehicle Shortages	270	\$28,500	\$7,695,000	7 yrs / 75,000 miles	\$1,099,000
<b>Total</b>			<b>\$106,602,000</b>		<b>\$16,818,000</b>

Assuming all vehicles will meet mileage criteria upon meeting age replacement standard.

District Assets Only

Armor Replacement Costs (\$37K for vehicle + \$80K general armor)

The request for \$2,000,000 replaces 77 total vehicles, 55 replacements to address areas of concern that would reduce the Fleet's average mileage to 48,221 miles and average age down to FY 2010; 22 vehicles to fill shortages, focusing on critical shortages in 14 districts that are not assigned motor pool vehicles. This would reduce Fleet's overall shortage from 270 to 248.



### **Impact on Performance**

This initiative supports the Attorney General's Targeted Priority Goal Option #1 – Protecting Americans from National Security Threats. It also supports DOJ Strategic Goal and Objectives under DOJ Goal 3 “Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice the Federal, State, Local, Tribal and International Levels” and Objective 3.2 “Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence.”

#### *Cyclical Replacement Program*

The request for base funding will allow the USMS to standardize its equipment replacement cycle to purchase much needed replacement of equipment that are likely past its normal useful cycle. Without the requested base funding, the USMS will be unable to:

- Maintain a sound protective equipment and vehicle inventory risking operational personnel safety when carrying out their duties
- Access to critical information/data due to service disruptions
- Issue deputies and equip vehicles proper equipment to ensure reliable and secure communications during execution of critical missions

#### *Special Operations Group (SOG) Selection, Specialty and Mandatory Recertification Training and Equipment*

The USMS SOG cuts across all divisions and districts. As the primary tactical resource for the USMS, SOG supports DOJ and USMS operations throughout the nation and abroad. A consistently well-trained, well-equipped force of tactical law enforcement officers is crucial to complete the core missions of the USMS as well as tasks assigned by the U.S. Attorney General. The advanced training and superior equipment are the main reasons that these tactical teams are called in for special operations around the country.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
Body Armor			\$1,330		
Land Mobile Radios			\$2,683		
Vehicle Replacement			\$2,000		
SOG Selection, Mandatory Training & Recertification			\$2,263		
Electronic Surveillance Equipment			\$1,761		
Total Non-Personnel			\$10,037		

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2016) (\$000)	FY 2019 Net Annualization (change from 2017) (\$000)
Current Services	0	0	0	\$0	\$0	\$0		
Increases	0	0	0	\$0	\$10,037	\$10,037	\$0	\$0
Grand Total	0	0	0	\$0	\$10,037	\$10,037	\$0	\$0

Affected Crosscuts

National Security



<b>Item Name:</b>	<b>Violent Fugitive Apprehension</b>
<b>Strategic Goal:</b>	<u>2 - Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law</u> <u>3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels</u>
<b>Strategic Objective:</b>	<u>2.1 - Combat the threat, incidence, and prevalence of violent crime</u> <u>3.2 - Protect judges, witnesses, and other participants in Federal proceedings; apprehend fugitives; and ensure the appearance of criminal defendants for judicial proceedings or Confinement</u> <u>3.5 - Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement</u>
<b>Budget Decision Unit(s):</b>	<u>Fugitive Apprehension</u>
<b>Organizational Program:</b>	<u>Fugitive Task Forces</u>
<b>Program Increase:</b>	Positions <u>[58]</u> Agt/Atty <u>[58]</u> FTE <u>29</u> Dollars <u>\$10,000,000</u>

### **Description of Item**

The USMS requests **0 positions, 29 FTE, and \$10,000,000** to backfill existing unfunded Deputy U.S. Marshals (DUSM) district positions that specialize in apprehending the most violent fugitives. This request will support the Department of Justice (DOJ) strategy to reduce violent crime and preserve the safety of communities from violent fugitives. Funding will allow the USMS to enhance its national network of violent fugitive task forces; increase its warrant capacity to further achieve its performance goals; and enhance officer safety.

### **Justification**

The USMS is the federal government's primary agency for apprehending fugitives. The USMS has the authority to investigate both state and federal fugitives, both within and outside the United States, as directed by the Attorney General. In addition, the USMS has Memorandums of Understanding (MOU) with a number of agencies to assume apprehension responsibility for their fugitives. The USMS has agreements in place with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), the Drug Enforcement Administration (DEA), and other non-federal law enforcement agencies.

To accomplish the fugitive mission, the USMS manages 60 district-led Violent Offender Task Forces (VOTF) and seven Regional Fugitive Task Forces (RFTFs). These USMS task forces partner with federal, state, and local law enforcement agencies and use investigative resources



such as criminal intelligence, electronic, air, and financial surveillance to capture the “worst-of-the-worst” fugitives.

The 60 VOTFs operate in districts that do not currently have an RFTF, and are staffed by personnel who are generally not assigned to these units on a full-time basis. Deputies must balance their collateral duties with other duties – such as court security, prisoner production, and prisoner transportation. When staffing in the district is low or there is a high volume of detainees scheduled for court appearances, deputies must focus on these duties rather than the fugitive mission.

Over the past five years, the USMS S&E appropriation has been held flat, creating unfunded vacancies to include deputy positions. This funding will allow the USMS to backfill deputy positions that have already been approved by Congress. The request will also allow the USMS to increase the number of deputies in the districts dedicated to the fugitive apprehension and criminal investigation missions. USMS analysis of task force performance shows an average increase of 32 violent fugitive warrants cleared per additional non-supervisory law enforcement position dedicated to enforcement operations. By dedicating additional personnel to the districts, the USMS can continue to increase its warrant capacity, locate and arrest more federal, state, and local fugitives, and more effectively reduce violent crime.

In FY 2015, the USMS undertook a successful national enforcement initiative, Operation Violence Reduction<sup>7</sup>, that resulted in more than 7,000 arrests. A second initiative, Operation Violence Reduction<sup>12</sup>, is currently underway at the request of the Department. With the expectation that the USMS will continue to support the Attorney General’s violent crime reduction goals through targeted enforcement operations, this request also fills a vital need to place personnel at headquarters to manage and support these national initiatives.

With this risk comes the need for additional training and standardization in enforcement operations. This request will allow the USMS to further advance the progress that has been made in readiness and officer safety improvements such as High Risk Fugitive Apprehension training. A well-trained task force network increases risk mitigation and enhances officer safety, all while making positive contributions to public safety and reducing violent crime.

### **Impact on Performance**

This program increase will support the Fugitive Apprehension decision unit. A performance outcome measure for this decision unit is: “number of USMS federal and egregious non-federal felony fugitives apprehended or cleared.” This measure includes physical arrest; directed arrest; surrender; dismissal; arrest by another agency, when a federal fugitive is taken into custody on a detainment order; and warrants that are dismissed to the other cleared categories. The measure also includes egregious non-federal felony fugitives which include targeted state and local fugitives with offenses involving: homicide, kidnapping, sexual assault, robbery, other assault, threats, arson, extortion, burglary, home invasion, carjacking, drugs (manufacture, sale and distribution), sex offenses, obscenity, cruelty toward child/spouse, obstructing the police, flight (escape), weapon offenses, gang-related crimes, crimes against persons, and obstructions of justice. The current measures focus on cases in which the USMS has held the primary arresting authority and cases that arguably have a greater impact on public safety, making them a USMS



fugitive apprehension priority. Additional resources will directly contribute to this performance measure by ensuring that the state and local case adoption process is adequately supervised at the district level, adding capacity to districts, increasing the focus on training, and maximizing the impact of national enforcement operations.

Additional resources will significantly improve risk mitigation by allowing personnel to more safely and effectively arrest violent fugitives and enhance community safety. The USMS has prioritized the arrest of the most violent and egregious offenders. . For example, in FY 2013, only 84.2% of state and local warrants adopted by the USMS met the current case criteria for an “egregious” state and local warrant. In FY 2015, the adoption metric was 91.4%. By focusing on “quality over quantity,” the USMS can more effectively reduce violent crime through the apprehension of violent fugitives, prioritizing the most egregious violent ones, and aligning the USMS with the Attorney General’s Priority Goal 2: Protecting Americans from violent crime and Priority Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels; as well as DOJ Strategic Objective 2.1: Combat the threat, incidence, and prevalence of violent crime, and DOJ Strategic Objective 3.2: - Protect judges, witnesses, and other participants in Federal proceedings; apprehend fugitives; and ensure the appearance of criminal defendants for judicial proceedings or confinement, and DOJ Strategic Objective 3.5 – Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement.

In addition, this request ties directly to USMS Strategic Objective 2.1: Maximize the efficiency of fugitive apprehensions. The USMS’ fugitive apprehension responsibility expands from federal fugitives to assistance in the apprehension of state and local fugitives. To accomplish this objective and the greatest public protection, the fugitive apprehension program focuses on the most egregious federal, state, and local offenders requiring strategic selection of state and local fugitive cases as well as efficient resource allocation to enhance the effectiveness of state and local fugitive apprehension.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
1,744	1,301	1,649	\$402,681	1,744	1,301	1,649	\$416,216	1,744	1,301	1,649	\$411,288

**Personnel Increase Cost Summary**

Type of Position/Series	Full-year Modular Cost per Position (\$000)	1 <sup>st</sup> Year Annual- ization	Number of Positions Requested	FY 2017 Request (\$000)	2 <sup>nd</sup> Year Annual- ization	2 <sup>nd</sup> Year FY 2018 Net Annualization (change from 2017) (\$000)	3 <sup>rd</sup> Year FY 2019 Net Annualization (change from 2018) (\$000)
Criminal Investigative Series (1811)	\$173.061	\$10,000		\$10,000	\$8,956	-\$1,044	\$5,290
<b>Total Personnel</b>	<b>\$173.061</b>	<b>\$10,000</b>		<b>\$10,000</b>	<b>\$8,956</b>	<b>-\$1,044</b>	<b>\$5,290</b>

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	1,744	1,301	1,649	\$269,114	\$142,174	\$411,288		
Increases			29	\$10,000	\$0	\$10,000	-\$1,044	\$5,290
Grand Total	1,744	1,301	1,678	\$279,114	\$142,174	\$421,288	-\$1,044	\$5,290

**Affected Crosscut**  
Violent Crime



**Item Name:** **Enforcement Operations**

**AG Priority Goal(s):** **2 - Protecting Americans from violent crime**

**Strategic Goal:** **2 - Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law**  
**3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels**

**Strategic Objective(s):** **2.1 - Combat the threat, incidence, and prevalence of violent crime**  
**3.2 - Protect judges, witnesses, and other participants in Federal proceedings; apprehend fugitives; and ensure the appearance of criminal defendants for judicial proceedings or confinement**

**Budget Decision Unit(s):** **Fugitive Apprehension**

**Organizational Program:** **Domestic Investigations**

**Program Increase:** Positions **60** Agt/Atty **54** Admin **6** Dollars **\$10,980,000**

### **Description of Item**

The USMS requests **60 positions, 54 Deputy U.S. Marshals (DUSM), 30 FTE and \$10,980,000** to establish one new Regional Fugitive Task Force (RFTF) in North and South Carolina, add Officer Safety positions, and Financial Surveillance Units to all RFTF locations. This request is directly related to the Department of Justice (DOJ) strategy to reduce violent crime and preserve the safety of communities nationwide from violent fugitives.

### **Justification**

In July of 2005, the Office of the Inspector General (OIG) issued Evaluation and Inspections Report I-2005-008, and provided a review of the USMS fugitive task forces apprehension of violent fugitives. Over the span of four years, the analysis showed the USMS increased violent fugitives apprehended by 51 percent. The OIG concluded that the USMS' performance improved primarily because of the increased staff time dedicated to violent fugitive investigations by 21 percent. As a result, the OIG recommended that the USMS consider creating additional task forces to further improve the violent fugitive apprehensions to reduce the number of violent federal fugitives at large.

The USMS Fugitive Task Forces accomplish critical work across the Nation by removing the most dangerous fugitives from the community safely and efficiently. The ability to consistently arrest the most violent offenders while ensuring the safety of the community remains paramount. Despite the increase of USMS violent fugitive apprehensions, dangerous criminal offenders continue to affect communities and demand for the USMS to enhance enforcement operations increases yearly.



The USMS operates 67 fugitive task forces: 60 district and seven RFTFs. District task forces comprises district DUSMs and state and local law enforcement officers who conduct investigations on the federal, state, and local warrants that originate within that district. Regional Fugitive Task Forces comprises Headquarters personnel assigned full-time to field locations, who partner with other federal, state, and local law enforcement to locate and arrest violent fugitives within an assigned region.

Full-time Task Force DUSMs fulfill a vital role and are subject matter experts for fugitive investigations while providing street supervision, liaising with external agencies, mentoring, training, trouble-shooting, and teaching. Their responsibility to safely apprehend the most violent offenders within their communities while maintaining collateral duties to uphold USMS administrative business practices is paramount to the success of the USMS.

On a daily basis, DUSMs:

- Mitigate risk to the USMS, USMS leadership, and USMS investigators
- Maintain the USMS' high standards through active oversight
- Reduce liability by following current USMS policy directives, Office of Enforcement Operations requirements, and ever-changing federal law and procedures
- Provide superior guidance, leadership, and supervision that has created and inspired the tangible results for the agency's task force mission

Building on the success of the current 67 USMS fugitive task forces will allow the USMS to advance its core mission of fugitive apprehension and reduction of violent crime. As part of the DOJ's Violent Crime Reduction Strategy, the USMS seeks to expand and enhance its network of 67 task forces with the creation of one new RFTF. This additional task force will support state and local law enforcement partners not only with investigative assistance, but also by providing equipment, vehicles, technical assistance, financial and electronic surveillance, foreign field office support, and training that would not otherwise be available.

An example of the USMS task forces' success is the recent nationwide action dubbed Operation Violence Reduction<sup>7</sup> (VR<sup>7</sup>), which targeted the most dangerous criminals. The USMS strategically used the agency's multi-jurisdictional investigative authority and its fugitive task force networks at the regional and local level. The operation concentrated on seven high-density regions and core cities where the USMS has established counter-gang units. This six-week operation resulted in 7,127 arrests, including 750 gang members, and the seizure of 383 firearms and more than 69 kilograms of illegal narcotics. The operation cleared 8,226 warrants including 543 for homicide, 894 for weapons, 2,027 for assault, 631 for sexual assault, 1,181 for robbery, and 2,661 for narcotics.

*Regional Fugitive Task Forces – 43 positions, 37 DUSMs, and \$7,650,000:*

The USMS request of 43 positions, 37 DUSMs, and \$7,650,000 provides support to fund a new task force in the Carolinas and expands existing RFTFs. The USMS task force leadership fulfills a vital role of ensuring safe operational procedures while maintaining and upholding USMS administrative business practices. Leadership oversight duties include: supervising, liaising with external and internal agencies, training of task force officers and DUSMs, maintaining fiscal



control, and ensuring the adherence to USMS policy directives and federal law and procedures. The USMS RFTFs, by design, cover expansive geographical areas and maintain large personnel participation. Thus, task force leadership has broad and important responsibilities.

This request will allocate two supervisory DUSM positions to each of the seven existing RFTFs for enhanced command and control of enforcement operations. These positions will also enhance span of control given the large geographical coverage, number of agencies affected by task force operations, and mission dangerousness. The USMS will assign one operational position to Headquarters to assist in RFTF program management. The remaining 22 operational positions will stand up a new RFTF in the Carolinas – the Districts of Eastern North Carolina (E/NC), Western North Carolina (W/NC), Middle North Carolina (M/NC), and South Carolina (D/SC). The states of South Carolina and North Carolina contributed five percent of the national violent crime statistics according to the most recent Uniform Crime Reporting (UCR) Program and three percent of felony warrants to the National Crime Information Center (NCIC). The RFTF will partner with state and local law enforcement agencies and focus on the apprehension of fugitives wanted for violent and egregious state and local offenses, gang members, and sex offenders.

The request also includes two professional administrative support positions that would handle the financial transactions associated with the program and provide a broad array of administrative support functions. Examples include: timekeeping, securing \$25,000 warrants, procuring authorized items, receiving and storing regional credit card statements, maintaining personnel files, maintaining district asset inventory, assisting with any audit-related functions, maintaining Task Force Officer background suitability and credentials, oversight of the Joint Law Enforcement Operations Task Force Officer overtime funding, and assisting with regional reporting and correspondence.

In addition, the request includes four intelligence research analysts who generate tactical and strategic intelligence support for fugitive investigations. Analysts support enforcement operations in many ways: tactical intelligence; leads on potential fugitives; and workload reporting and support through the USMS' case management system.

#### *Officer Safety – 8 DUSMs and \$1,567,000*

Following the tragic line-of-duty deaths of two DUSMs and seven task force officers, the USMS senior management created a national training initiative known as High Risk Fugitive Apprehension (HRFA). The HRFA training program, staffed primarily with enforcement operational personnel, utilizes RFTF, Special Operations Group, and Federal Law Enforcement Training Center venues to train more than 1,000 DUSMs.

The USMS continues to implement the highly successful national HRFA training program. With the continued efforts of the USMS personnel to arrest violent offenders, ongoing training is imperative to ensure officer safety and risk mitigation remain a high priority for the USMS and its federal, state, and local partners while ensuring public safety. The request includes eight officer safety positions that would be the lead training coordinator for each of the RFTFs.

The Officer Safety positions would be responsible for coordinating and delivering officer safety training. This training incorporates practices developed through the HRFA training and combines them with tactical proficiency training conducted regularly at the RFTFs. This type of



training is a perishable skill that if not constantly refreshed will be lost. Every law enforcement officer working in support of the USMS fugitive task force mission must receive this training on an annual basis.

Officer safety/risk mitigation sustainment instruction is currently conducted by a collateral duty training officer in each district. Each RFTF covers multiple districts and are responsible for the sustainment training of approximately 50 percent of the USMS' task force officers. Due to the large size of the RFTFs and the lack of dedicated training coordinators, annual sustainment training is provided as schedules permit and at the expense of fugitive workload. The USMS RFTFs require dedicated, full-time positions to achieve officer safety sustainment training goals.

#### *Financial Surveillance Unit (FSU) – 9 DUSMs and \$1,763,000*

The FSU determines the feasibility of applying systematic financial surveillance techniques to track and apprehend fugitives. FSU personnel use various sources to track a fugitive's financial activities in "real-time" by investigating their use of debit cards, credit cards, fund transfers, as well as a host of other financial transactions and information. Since its inception, the FSU has been a tremendous asset used in many successful fugitive investigations.

Currently, three FSU Inspectors support an average caseload of approximately 2,075 cases per year using a network of 32 collateral duty FSU personnel who may be afforded time to work this collateral duty by their assigned district if time allows. Historical analysis shows that collateral personnel can assist with approximately 45 cases, while a full-time FSU inspector supports a caseload of 220 per annum. Collateral personnel are not always available for training and continuing education which lessens their skill set and thusly, their utility as a senior level investigator. By increasing the full-time personnel dedicated to FSU, the request would greatly enhance the USMS' ability to gather intelligence for fugitive investigations.

#### **Impact on Performance**

The USMS enforcement operations support the Fugitive Apprehension decision unit. A performance outcome measure for this decision unit is: "number of USMS federal and egregious non-federal felony fugitives apprehended or cleared." This measure includes physical arrest, directed arrest, surrender, dismissal, and arrest by another agency, when a federal fugitive is taken into custody on a detainment order, and warrants that are dismissed to the other cleared categories. The measure also includes egregious non-federal felony fugitives: targeted state and local fugitives with offenses involving homicide, kidnapping, sexual assault, robbery, other assault, threats, arson, extortion, burglary, home invasion, carjacking, drugs (manufacture, sale and distribution), sex offenses, obscenity, cruelty toward child/spouse, obstructing the police, flight (escape), weapon offenses, gang-related crimes, crimes against persons, and obstructions of justice. Current measures focus on cases in which the USMS has held the primary arresting authority and cases that arguably have a greater impact on public safety, making them a USMS fugitive apprehension priority.

Additional resources will significantly improve risk mitigation by allowing personnel to more safely and effectively arrest violent fugitives and enhance community safety. The USMS has evolved from a "quantity over quality" to a "quality over quantity" approach when arresting violent offenders. This allows the USMS to more effectively reduce violent crime through the apprehension of violent fugitives, prioritizing the most egregious violent ones, and aligns the



USMS with the Attorney General's Priority Goal 2: Protecting Americans from violent crime and with DOJ Strategic Objective 3.2 Protect judges, witnesses, and other participants in Federal proceedings; apprehend fugitives; and ensure the appearance of criminal defendants for judicial proceedings or confinement.

In addition, this request ties directly to USMS Strategic Objective 2.1: Maximize the efficiency of fugitive apprehensions. In FY 2014, the USMS enforcement operations were responsible for the apprehension of over 100,000 fugitives nationwide. With additional resources, the USMS projects to increase the program's capacity by 1,980 cases to support a total caseload of approximately 4,000 fugitives. The additional 14 supervisory DUSM positions to the seven existing RFTFs will allow the USMS to more efficiently manage the large geographic and task force officer footprint and will reduce the supervisor to law enforcement ratio from 1:18 to 1:7. This correction will align USMS closer to the law enforcement community and will promote better span of control and officer safety/risk mitigation efforts. In addition, the eight Officer Safety positions will manage each task force's local training program and instruct task force personnel on operational techniques and essential officer safety skills.

With the new RFTF positions, the USMS anticipates an increase of at least 840 USMS arrests of violent state and local fugitives based on the USMS personnel alone. The organizational structure of the RFTF will likely allow the USMS to undertake additional state and local agencies beyond its current partnerships and thereby increase the total number of arrests with the new RFTF in the Carolinas. The additional personnel will enhance the USMS to locate and arrest egregious offenders and help reduce violent crime within our communities.

- Since 2002, the USMS has arrested 1,187,981 fugitives (clearing 1,680,608 warrants).
  - RFTFs arrested 392,761 of those fugitives wanted for a wide variety of crimes:
    - 18,516 were wanted for homicide;
    - 107,922 for narcotics.
    - 27,157 for weapons violations;
    - 48,120 for assault;
    - 14,175 for sexual assault;
    - 31,627 for robbery; and
    - 145,244 for other crimes.

Since 2002, USMS RFTFs have also seized 12,533 firearms; 16,714 kilograms of narcotics; and \$47,737,891 in U.S. currency. With the requested funding increase, the USMS anticipates an increased ability to capture the most dangerous fugitives and continue to reduce violent crime within our communities.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
212	172	212	\$70,700	212	172	212	\$71,016	212	172	212	\$71,335

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Criminal Investigative Series (1811)	\$196	54	\$10,578	-\$706	\$4,925
Intelligence Series (0132)	\$67	4	\$268	\$202	\$209
Clerical and Office Services (0300-0399)	\$67	1	\$67	\$50	\$52
Information Technology Mgmt (2210)	\$67	1	\$67	\$50	\$52
Total Personnel		60	\$10,980	-\$404	\$5,238

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	212	172	212	\$32,202	\$39,133	\$71,335		
Increases	60	54	30	\$10,980	\$0	\$10,980	-\$404	\$5,238
Grand Total	272	226	242	\$43,182	\$39,133	\$82,315	-\$404	\$5,238

**Affected Crosscuts:****Violent Crime**



<b>Item Name:</b>	<b><u>Information Technology Infrastructure</u></b>
<b>Strategic Goal:</b>	<u>3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice the Federal, State, Local, Tribal and International Levels</u>
<b>Strategic Objective:</b>	<u>3.2 Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence</u> <u>3.3 Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates</u>
<b>Budget Decision Unit(s):</b>	<u>Judicial and Courthouse Security</u> <u>Fugitive Apprehension</u> <u>Prisoner Security and Transportation</u> <u>Protection of Witnesses</u> <u>Tactical Operations</u>
<b>Organizational Program:</b>	<u>Information Technology Division</u>
<b>Program Increase:</b>	Positions <u>0</u> Agt/Atty <u>0</u> FTE <u>0</u> Dollars <u>\$25,122,000</u>

### **Description of Item**

The USMS requests **0 positions and \$25,122,000** to modernize, replace and consolidate outdated USMS investigative, judicial security, and prisoner management information systems. The USMS legacy systems are unable to keep up with the current operational requirements for stability, security, and scalability. The new system will result in operational efficiencies, new mobile capabilities, and improved information sharing.

### **Justification**

The USMS' primary operational mission system is the Justice Detainee Information System (JDIS). Its current configuration and supporting systems lack stability, scalability, centralization, and are no longer technologically sustainable. Current capabilities of the systems do not meet operational mission requirements effectively or efficiently. Moreover, the current systems do not easily interface with external local, state, and federal partners for complex data sharing.

**Next Generation (NextGen) Initiative** – This initiative will integrate and improve current USMS operational business and mission capabilities (automated and manual), consolidate operational data, and improve operational business processes. New web-based solution(s) will allow users to access systems and applications from multiple platforms (i.e. desktops, tablets, and mobile phones) in a manner which is intuitive for each distinctive USMS line of business. This will ensure standardization and accuracy of data which system users could consume from a single, standardized data repository.



NextGen will replace and improve JDIS and other mission systems/processes with greater operational business capabilities and consolidate all mission data into a single, modernized data solution for enhanced intelligence gathering, reporting, and decision making.

The current legacy systems and processes are unsustainable for future operational requirements for stability, security, and scalability. Specifically, JDIS technology is already out of date and is no longer supported by the vendor. NextGen will provide data sharing, data analytics, automated notifications, enhanced reporting, real-time dashboard, case management, graphic mapping tools and mission tracking.

The USMS requests to modernize its operational information and case management systems will not only result in operational efficiencies and new mobile computing capabilities but will also increase officer safety and improve internal and external information sharing across all District Offices and for Headquarters program managers. The USMS will deploy this initiative incrementally using an agile development framework.

Today, in order to gather all data on a specific prisoner, a deputy must access multiple applications/systems and manually search filing cabinets to consolidate information about the detainee. Through the implementation of NextGen, the USMS will create a master prisoner record. This master prisoner record will provide biographic information, warrants, associates, detainees' current location, etc. The deputy could access data through the mission applications through the device that best supports his/her mission. By accessing the master prisoner record, the deputy will know a prisoner's gang relationships, medical issues, or violent tendencies, which will increase officer safety.

NextGen has created lines of business (LoB) to make certain that it will meet the needs of the USMS personnel.

- Investigations - The Investigations Line of Business (LoB), joins management, tracking, reporting, data interchange and administrative activities to support subject investigations, financial asset investigations, tactical operations, and the implementation of the DOJ violent crime reduction strategy, as well as criminal intelligence collection and sharing that results from these activities.
- Prisoner Management - The Prisoner Management LoB spans the entire lifecycle of a prisoner from arrest through commitment and release, and encompasses medical support, prisoner transportation, and other logistics during imprisonment. Specifically, this LoB includes management of prisoner booking, custody and court case records, producing the detainee during trial, designating prisoners to facilities, facility vacancy management, and financial tracking of transportation costs with affiliated local, state, and federal agencies
- Security Management - NextGen logically organizes the operational mission functions of the USMS into categories. The Security Management LoB, incorporates all activities related to securing spaces where a USMS footprint exists. The Security Management LoB is organized into four mission functions: Facility Management, Security Officer Management, Security Systems Management, and Protective Operations Management.



The requested funding will support the baseline development and deployment costs to build the NextGen initiative. The funding will be used for: hardware and the associated infrastructure software; commercial off-the-shelf (COTS) software licensing; contractor services needed to configure, develop, test, and deploy NextGen; and contractor services to modify/turnoff capabilities within the legacy mission applications as NextGen functionality is deployed.

### **Impact on Performance**

This initiative fully supports the Attorney General's Targeted Priority Goal 3 "Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice the Federal, State, Local, Tribal and International Levels," Objective 3.2 "Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence," and Objective 3.3 "Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates."

This request is also consistent with the AG's funding priority to enhance core infrastructure that supports investigative and data analytics, information technology systems, and the data centers that house IT systems.

Without these resources, the USMS will continue to operate on an unstable platform nearing end of life with components that are no longer supported or sustainable. These resources are necessary for the USMS to continue to meet its mission mandate in the most expeditious, effective, and efficient manner possible. Through this initiative, the USMS will realize the following benefits:

- Significant improvement in operational business capabilities to enhance intelligence gathering, reporting, and decision making so that officer safety is made central.
- Central maintenance of disparate operational mission systems completing similar, if not same, functions across multiple divisions and districts.
- Substantial improvement in data management, retrieval, and reporting capabilities so that timely, integrated information is available to the USMS, as well as other federal, state, and local law enforcement. This will strengthen partnerships as the USMS identifies and develops solutions beneficial to the Agency and the Department. These efforts will improve the USMS' ability to discover information, generate knowledge providing the USMS integrated, seamless, and reliable systems that are readily accessible to relevant data.
- Advanced enterprise data security by implementing role-based access controls at the enterprise level to ensure data can only be seen or accessed by appropriate users.
- Cost avoidance in man-hours through implementation of recently re-engineered business processes.



The USMS requires additional resources to effectively develop a comprehensive IT environment that will modernize technology, allow for better data sharing and facilitate greater efficiencies across the agency. Without these resources, the USMS will be limited in its abilities to provide sufficient oversight and produce timely and accurate information and data.



**Funding**Base Funding

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
4	0	2	\$4,706	4	0	4	\$4,706	4	0	4	\$4,714

Non-Personnel Increase/Reduction Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
NextGen – Software, hardware and Services			\$25,122	\$0	\$0
Total Non-Personnel			\$25,122	\$0	\$0

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	4	0	4	\$514	\$4,200	\$4,714		
Increases	0	0	0	\$0	\$ 25,122	\$ 25,122	-\$3,722	-\$5,293
Grand Total	4	0	4	\$514	\$29,322	\$29,836	-\$3,722	-\$5,293

Affected Crosscut:

N/A



<b>Item Name:</b>	<b><u>Risk Management</u></b>
Strategic Goal:	<u>3 – Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels</u>
Strategic Objective:	<u>3.2 Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence</u> <u>3.3 Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates</u> <u>3.5 Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement</u>
Budget Decision Unit(s):	<u>Judicial and Courthouse Security</u> <u>Fugitive Apprehension</u> <u>Prisoner Security and Transportation</u> <u>Protection of Witnesses</u> <u>Tactical Operations</u>
Organizational Program:	<u>Office of Professional Responsibility (OPR)</u>
Program Increase:	Positions <u>6</u> Agt/Atty <u>4</u> FTE <u>3</u> Dollars <u>\$2,462,000</u>

### **Description of Item**

The USMS requests **six positions, four Deputy U.S. Marshals, and \$2,462,000** for the staffing, and funding for mission critical expenses of the Office of Professional Responsibility (OPR). The request responds to the Office of the Inspector General (OIG) audit recommendations and aligns the USMS with recognized best practices across the Department of Justice.

OPR ensures accountability and integrity of USMS programs, personnel, and financial activities. OPR comprises three units: Internal Affairs, Compliance Review, and Discipline Management. Internal Affairs processes and investigates allegations of employee misconduct in accordance with DOJ and USMS policies and procedures. Discipline Management provides expert advice and guidance to USMS Management regarding proper resolution of misconduct offenses, so that timely and effective case disposition can be achieved. Compliance Review is the USMS' internal control mechanism that ensures integrity, accountability, and risk management in programs, policies, and processes.

Of the total requested positions, three positions would be allocated to Compliance Review. With these positions, the USMS would be able to conduct an additional nine on-site reviews and facilitate corrective action and follow-up protocols. These positions would increase the review cycle of USMS programs putting it in line with other DOJ law enforcement components. In addition, one position will manage the Compliance Review's Self-Assessment Guide (SAG)



program, which is a management tool used by districts and divisions to assess operational, administrative, and financial processes. Funding of \$459,000 is requested to cover salaries and related costs for three additional positions.

The USMS would allocate three new positions to Internal Affairs. One inspector would assume a traditional role conducting a variety of misconduct investigations and responding to use-of-force incidents and a second inspector would be an information technology forensic/cybercrime subject matter expert. A program analyst would oversee administrative processes; create, update and enforce quality standards; and ensure best practices are in use. The USMS requests \$459,000 to support salaries and related costs to hire two inspectors and one administrative position.

Auxiliary Compliance Review Team (ACRT) members augment the Compliance Review workforce and participate in every single compliance review. These individuals are volunteers and are selected from the various USMS districts and divisions and are pivotal to the success of the Compliance Review program. To expand the number of reviews, the USMS estimates the cost increase for ACRT members at \$390,000 to support training and travel costs.

Contractors provide critical support for A-123 testing and procurement assessments as USMS increases the on-site reviews from 18 to 27. A Records Examiner contractor position will provide data analysis, policy vetting, test plan development, process analysis, and continued programmatic support for on-site reviews. An administrative contractor is required for executing data processing, correspondence, minor disciplinary actions, and case management action items. A Technical Writer will provide administrative support with data analysis and correspondence products. An Information Technology contractor will provide subject matter support for investigations involving computer, text messaging, and cybercrime analysis. The USMS requests \$1,155,000 for contractor and related costs to support the OPR's expanded reviews.

### **Justification**

Internal Affairs and Discipline Management are predominantly "responsive" units and do not generate workload internally. These units do not have the luxury of refusing to conduct an investigation or adjudication, and each allegation or use-of-force incident must be given a comprehensive review. In particular, Internal Affairs investigators are required to immediately respond to all intentional shooting incidents and coordinate with local law enforcement officials as a representative of the USMS. Such unscheduled responsibilities interrupt work on investigative caseloads.

- In FY 2015, Internal Affairs received 866 misconduct complaints and 597 reported uses-of-force. This is a 34 percent increase in workload over FY 2012 levels and without a commensurate increase to staffing and budget.
- In FY 2015, Internal Affairs referred to Discipline Management 186 centralized disciplinary cases for adjudication and 215 District/Division Management cases for processing.



- Average active caseload for Internal Affairs investigators in FY 2015 was 22 cases per inspector, which is well above industry standard. Average case processing per Discipline Management Specialist in FY 2015 was 67 cases per specialist. Many cases include a proposal phase and a decision phase, and require separate levels of work for each phase -- effectively doubling the number of cases.
- Discipline Management opened 418 cases in FY 2013, 425 cases in FY 2014, and 466 cases in FY 2015.
- Removal cases, by their nature, require extensive work and require more resources than lesser disciplinary cases. In FY 2015, Discipline Management adjudicated seven cases resulting in removal of the employee. So far in this fiscal year, Discipline Management has processed nine cases where employees are proposed for removal.

Currently, the USMS can only be reactive to employee misconduct. The risk of continued employee misconduct, without proactive mitigation efforts, harms the public, the reputation of the USMS, and the Department of Justice. With additional resources, the USMS could improve outreach, communication and training to field offices concerning the potential pitfalls of employee misconduct. The risks to the USMS of continued employee misconduct at current levels include: Congressional and media attention; possible liability for employee misconduct the USMS knew about (workplace violence); resource impacts for repeated discipline, such as lost USMS-issued equipment.

Delays in closing investigations and adjudicating cases have a detrimental effect USMS-wide. At present, Internal Affairs has 317 active/open investigations, which creates a situation whereby 317 employees, who may otherwise be exemplary, are being penalized for no other reason than they are subject to a slow investigative process. At present, Discipline Management has 109 active cases, which means there are over 100 employees awaiting disciplinary action. This delay results in low morale, close scrutiny from outside entities, and an inability to promote/recognize deserving employees. Investigative delay is more than an abstract concern. In FY 2011, OPR conducted 3,335 integrity checks for Merit Promotion, Background and Suitability, and Awards screening purposes. Of that number, approximately 11 percent of the checks identified an open case and OPR responded to the requesting office accordingly.

#### *Use-of-Force Investigations*

With the exception of firearm discharges, which mandate an immediate response, Internal Affairs does little more than a cursory review of use-of-force incidents due to resource shortages. In FY 2015, Internal Affairs received 597 USMS Use-of-Force Reports, 70 of those incidents involved firearm discharges and were investigated according to policy. Other use-of-force incidents, including 346 projectile stun gun (PSG) deployments, were processed by Internal Affairs and were reviewed by a GS-14 DUSM for possible investigation.

In FY 2016, the DOJ/OIG, in conjunction with the DOJ Civil Rights Division, is finalizing a Memorandum of Understanding (MOU) with DOJ components to standardize use-of-force reporting requirements. When implemented, the USMS will be required to report firearm



discharges involving task force officers. The new MOU will result in an estimated additional 55 cases annually or 100 percent increase in firearm discharge cases.

### *OIG Audit Recommendations*

External and internal mandates have required Compliance Review to shift from a comprehensive system to a risk-based operation that focuses on Enterprise Risk Management (ERM). In February 2012, the OIG recommended an USMS inspection cycle of four years or less instead of the current 11-year cycle. This shorter review cycle is consistent with other DOJ components including the FBI, DEA, and BOP.

The recommendations in the December 2012 Audit of the USMS' Procurement Activities recommended OPR strengthen the inspection system over procurement activities by:

- a. Ensuring a shorter and consistent cycle for reviewing procurement operations in the district and division offices
- b. Ensuring the work plan for performing Compliance Review considers the risks of non-compliance, as well as top management concerns, to focus review resources
- c. Establishing a process in Compliance Review for following up on deficiencies identified during its reviews to ensure that corrective actions are implemented to resolve the deficiencies

By increasing the review cycle to four years (27 reviews per year) and instituting follow-up reviews, the Compliance Review program will be far more effective in mitigating USMS-wide risks, identifying and remediating fraud, waste, and abuse, and continuing to assist in attaining unqualified audit opinions on financial audits. This increase will maximize employee effectiveness and programmatic efficiencies by continually ensuring programs and personnel productivity are maximized. This program enhancement will create a culture of accountability and directly impact the overall Agency's ERM strategy.

### **Impact on Performance**

This initiative supports the Attorney General's Targeted Priority Goal 3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels; Objective 3.2 Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence; Objective 3.3 Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates; and Objective 3.5 Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement

This initiative is also consistent with one of the AG's funding priorities, which is, to combat abuses of the public trust by elected officials, court personnel, law enforcement officials, and government decision makers at all levels of government.

Additional personnel will benefit all three OPR missions by returning the staff to appropriate levels commensurate with the workload. Compliance Review will achieve an industry standard



review cycle that will place each USMS area on a square four-year review pattern, eliminating yearly shortfalls and elongating the review cycle beyond an ideal timeframe.

*Workload Trends*

OPR-IA, Complaints Received: FY 2010 – FY 2015

FY 2010	FY 2011	FY 2012	FY 2013	FY 2014*	FY 2015
524	632	648	728	733	866

OPR-IA, Investigations Referred to OPR-DM, FY 2010-FY2015

FY 2010	FY 2011	FY 2012	FY 2013	FY 2014*	FY 2015
128	200	199	180	182	186

OPR-DM, Cases Adjudicated: FY 2011 – FY 2015

FY 2011	FY 2012**	FY 2013	FY 2014*	FY 2015
89	204	262	233	242

OPR-CR, Compliance Reviews Conducted, FY 2011 – FY2015\*\*\*

FY 2011	FY 2012	FY 2013	FY 2014*	FY 2015
8	11	11	16	18

\* FY 2014: It should be noted that OPR lost productivity in FY 2014 due to the shutdown of the federal government, October 1-16, 2013.

\*\*FY 2012: Totals reflect April 1 - September 30, 2012, displaying the number of cases handled by OPR-DM after separation from HRD.

\*\*\* The DOJ Office of the Inspector General made a formal recommendation to the USMS to implement a four-year review cycle on par with other Department components. A four-year cycle necessitates that OPR-CR conduct 27 Compliance Reviews per fiscal year.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
28	17	28	\$7,471	28	17	28	\$7,524	28	17	28	\$7,577

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Criminal Investigative Series (1811)	\$196	4	\$783	-\$52	\$365
Management & Prog Analyst (0343)	\$67	2	\$134	\$102	\$104
<b>Total Personnel</b>		<b>6</b>	<b>\$917</b>	<b>\$50</b>	<b>\$469</b>

**Non-Personnel Increase/Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Contractor (CR, A-123)	\$200	2	\$400	\$0	\$0
Contractor (CR, Records Exam)	\$100	1	\$100	\$0	\$0
Contractor (DM, Admin)	\$220	1	\$220	\$0	\$0
Contractor (IA, Tech Writer)	\$115	1	\$115	\$0	\$0
Contractor (IA, Forensic IT)	\$250	1	\$250	\$0	\$0
CR, ACRT Training			\$150	\$0	\$0
CR, ACRT Travel			\$240	\$0	\$0
CR, Surveys			\$30	\$0	\$0
IA, Transcription			\$15	\$0	\$0
IA, Travel			\$25	\$0	\$0
<b>Total Non-Personnel</b>			<b>\$1,545</b>	<b>\$0</b>	<b>\$0</b>

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	28	17	28	\$5,381	\$2,196	\$7,577		
Increases	6	4	3	\$917	\$1,545	\$2,462	\$50	\$469
<b>Grand Total</b>	<b>34</b>	<b>21</b>	<b>31</b>	<b>\$6,298</b>	<b>\$3,741</b>	<b>\$10,039</b>	<b>\$50</b>	<b>\$469</b>

**Affected Crosscuts:**

N/A



## Program Decrease by Item

**Item Name:** Construction  
**Strategic Goal:** 3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice the Federal, State, Local, Tribal and International Levels  
**Strategic Objective:** 3.2 - Protect judges, witnesses, and other participants in the federal proceedings by anticipating, deterring and investigating threats of violence  
**Budget Decision Unit(s):** Construction  
**Organizational Program:** Construction  
**Component Ranking of Item:** 1 of 1  
**Program Increase:** Positions 0 Agt/Atty 0 FTE 0 Dollars -\$5,000,000

### Description of Item

The USMS proposes an **offset of \$5,000,000** to reduce courthouse renovation funding within the Construction Appropriation. The Construction appropriation provides resources to modify space controlled, occupied and/or utilized by the USMS for prisoner holding and related support space. This offset non-recurs the FY 2016 program increase.

### Justification

The USMS is able to prioritize and schedule renovation projects with the General Services Administration within available funds. This offset reduces Construction funding to nearly the same level as FY 2015.

### Impact on Performance

This offset will have a minor impact on USMS' ability to accomplish its strategic and performance goals related to courthouse and space renovations. Within available resources, the USMS will continue its efforts to maintain current project backlogs, maintain aging facilities, and provide safety and security for judicial officials, courtroom participants, USMS personnel and the public.



**Funding****Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
0	0	0	\$9,800	0	0	0	\$15,000	0	0	0	\$15,000

**Non-Personnel Reduction Cost Summary**

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Construction			-\$5,000	\$0	\$0
Total Non-Personnel			-\$5,000	\$0	\$0

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non-Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	\$0	\$15,000	\$15,000		
Decrease	0	0	0	\$0	-\$5,000	-\$5,000	\$0	\$0
Grand Total	0	0	0	\$0	\$10,000	\$10,000	\$0	\$0

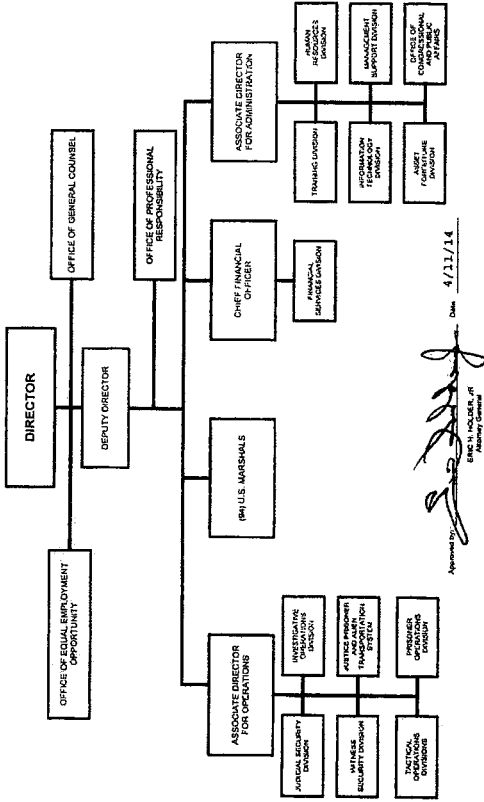
**Affected Crosscuts**

National Security



A. Organizational Chart

UNITED STATES MARSHALS SERVICE





B. Summary of Requirements

**Summary of Requirements**

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	<b>5,554</b>	<b>4,876</b>	<b>1,195,000</b>
<b>Total 2015 Enacted</b>	<b>5,554</b>	<b>4,876</b>	<b>1,195,000</b>
<b>2016 Enacted 2/</b>	<b>5,554</b>	<b>4,876</b>	<b>1,230,581</b>
<b>Base Adjustments</b>			
Pay and Benefits	0	0	7,448
Domestic Rent and Facilities	0	0	-21,569
Foreign Expenses	0	0	95
<b>Total Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>-14,026</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>0</b>	<b>-14,026</b>
<b>2017 Current Services</b>	<b>5,554</b>	<b>4,876</b>	<b>1,216,555</b>
<b>Program Changes</b>			
Increases:			
Deputy U.S. Marshals Life and Safety	0	0	10,037
Violent Fugitive Apprehension	0	29	10,000
Enforcement Operations	60	30	10,980
Information Technology Infrastructure	0	0	25,122
Risk Management	6	3	2,462
Subtotal, Increases	66	62	58,601
<b>Total Program Changes</b>	<b>66</b>	<b>62</b>	<b>58,601</b>
<b>2017 Total Request</b>	<b>5,620</b>	<b>4,938</b>	<b>1,275,156</b>
<b>2016 - 2017 Total Change</b>	<b>66</b>	<b>62</b>	<b>44,575</b>

<sup>1/</sup> FY 2015 FTE is actual

<sup>2/</sup> FY 2016 and FY 2017 FTE are different from MAX A-11 based on most recent FTE estimates.



**Summary of Requirements**  
U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			FY 2016 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Judicial and Courthouse Security	2,222	1,880	461,795	2,222	1,880	472,738	2,222	1,880	467,370
Fugitive Apprehension	1,744	1,649	402,681	1,744	1,649	418,216	1,744	1,649	411,288
Prisoner Security & Transportation	1,204	1,027	253,381	1,204	1,027	259,301	1,204	1,027	256,333
Protection of Witnesses	207	146	35,715	207	146	36,734	0	371	36,353
Tactical Operations	177	174	41,428	177	174	45,592	177	174	45,201
<b>Total Direct</b>	<b>5,554</b>	<b>4,876</b>	<b>1,195,000</b>	<b>5,554</b>	<b>4,876</b>	<b>1,230,581</b>	<b>5,554</b>	<b>4,876</b>	<b>1,216,555</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>1,195,000</b>			<b>1,230,581</b>			<b>1,216,555</b>
Reimbursable FTE		352			410			410	
<b>Total Direct and Reimb. FTE</b>		<b>5,238</b>			<b>5,286</b>			<b>5,286</b>	
Other FTE:									
LEAP		760			760			760	
Overtime		63			63			63	
<b>Grand Total, FTE</b>		<b>6,061</b>			<b>6,109</b>			<b>6,109</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Judicial and Courthouse Security	3	1	13,014	0	0	0	2,225	1,881	480,384
Fugitive Apprehension	62	60	34,055	0	0	0	1,806	1,709	445,343
Prisoner Security & Transportation	1	1	7,081	0	0	0	1,205	1,028	263,414
Protection of Witnesses	0	0	976	0	0	0	207	146	37,339
Tactical Operations	0	0	3,475	0	0	0	177	174	48,675
<b>Total Direct</b>	<b>66</b>	<b>62</b>	<b>58,601</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5,620</b>	<b>4,938</b>	<b>1,275,156</b>
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			<b>58,601</b>			<b>0</b>			<b>1,275,156</b>
Reimbursable FTE		62			0			410	
<b>Total Direct and Reimb. FTE</b>		<b>62</b>			<b>0</b>			<b>5,348</b>	
Other FTE:									
LEAP		0			0			760	
Overtime		0			63			63	
<b>Grand Total, FTE</b>		<b>62</b>			<b>0</b>			<b>6,171</b>	



## FY 2017 Program Changes by Decision Unit

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Judicial and Courthouse Security			Fugitive Apprehension			Prisoner Security & Transportation		
		Direct Pos.	Ag't/Atty	Est. FTE	Amount	Direct Pos.	Ag't/Atty	Est. FTE	Amount	Direct Pos.
Deputy U.S. Marshals Life and Safety	67	0	0	0	2,311	0	0	0	3,794	0
Violent Fugitive Apprehension	77	0	0	0	0	0	0	29	10,000	0
Enforcement Operations	81	0	0	0	0	60	54	30	10,980	0
Information Technology Infrastructure	87	0	0	0	9,651	0	0	0	8,497	0
Risk Management	92	3	2	1	1,052	2	1	1	784	1
<b>Total Program Increases</b>		<b>3</b>	<b>2</b>	<b>1</b>	<b>13,014</b>	<b>62</b>	<b>55</b>	<b>60</b>	<b>34,055</b>	<b>1</b>

Program Increases	Location of Description by Program Activity	Protection of Witnesses			Tactical Operations			Total Increases		
		Direct Pos.	Ag't/Atty	Est. FTE	Amount	Direct Pos.	Ag't/Atty	Est. FTE	Amount	Direct Pos.
Deputy U.S. Marshals Life and Safety	67	0	0	0	180	0	0	0	2,486	0
Violent Fugitive Apprehension	77	0	0	0	0	0	0	0	0	0
Enforcement Operations	81	0	0	0	0	0	0	0	0	29
Information Technology Infrastructure	87	0	0	0	750	0	0	0	931	0
Risk Management	92	0	0	0	46	0	0	0	58	6
<b>Total Program Increases</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>976</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3,475</b>	<b>66</b>



FY 2017 Program Changes by Decision Unit

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Judicial and Courthouse Security			Fugitive Apprehension			Prisoner Security & Transportation		
		Direct Pos	Agg./Atty.	Est. FTE	Amount	Direct Pos	Agg./Atty.	Est. FTE	Amount	Direct Pos
Deputy U.S. Marshals Life and Safety	67	0	0	0	2,311	0	0	0	3,794	0
Violent Fugitive Apprehension	77	0	0	0	0	0	0	0	10,000	0
Enforcement Operations	81	0	0	0	0	60	54	30	10,980	0
Information Technology Infrastructure	87	0	0	0	9,651	0	0	0	8,497	0
Risk Management	92	3	2	1	1,052	2	1	1	784	1
Total Program Increases		3	2	1	13,014	62	55	60	34,055	1

Program Increases	Location of Description by Program Activity	Protection of Witnesses			Tactical Operations			Total Increases		
		Direct Pos	Agg./Atty.	Est. FTE	Amount	Direct Pos	Agg./Atty.	Est. FTE	Amount	Direct Pos
Deputy U.S. Marshals Life and Safety	67	0	0	0	180	0	0	0	2,486	0
Violent Fugitive Apprehension	77	0	0	0	0	0	0	0	0	0
Enforcement Operations	81	0	0	0	0	0	0	0	0	29
Information Technology Infrastructure	87	0	0	0	750	0	0	0	931	0
Risk Management	92	0	0	0	46	0	0	0	58	6
Total Program Increases		0	0	0	976	0	0	0	3,475	66



**Resources by Department of Justice Strategic Goal and Objective**  
 U.S. Marshals Service  
 Salaries and Expenses  
 (Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE
<b>Goal 1 Prevent Terrorism and Promote the Nation's Security</b>																		
Consistent with the Rule of Law																		
1.1 Prevent, disrupt, and defeat terrorist operations before they occur by integrating intelligence and law enforcement efforts to achieve a coordinated response to terrorist threats.	391	101,120	391	106,460	391	107,323	0	4,946	0	0	0	0	0	0	0	391	112,269	
Subtotal, Goal 1	391	101,120	391	106,460	391	107,323	0	4,946	0	0	0	0	0	0	0	391	112,269	
<b>Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law</b>																		
2.2 Prevent and intervene in crimes against vulnerable populations and uphold the rights of, and improve services to America's crime victims.	211	55,733	211	60,838	211	61,305	0	0	0	0	0	0	0	0	0	211	61,305	
Subtotal, Goal 2	211	55,733	211	60,838	211	61,305	0	0	0	0	0	0	0	0	0	211	61,305	
<b>Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels</b>																		
3.1 Promote and strengthen relationships and strategies for the administration of justice with law enforcement agencies, organizations, prosecutors, and defenders, through innovative leadership and programs.	29	17,926	29	18,205	29	18,361	0	0	0	0	0	0	0	0	0	29	18,361	
3.2 Protect judges, witnesses, and other participants in federal proceedings by anticipating, deterring, and investigating threats of violence.	1,915	437,818	1,924	448,694	1,924	441,611	0	12,519	0	0	0	0	0	0	0	1,924	454,130	
3.3 Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates.	1,027	253,381	1,027	259,301	1,027	256,333	0	7,081	0	0	0	0	0	0	0	1,027	263,414	
3.5 Apprehend fugitives to ensure their appearance for federal judicial proceedings or confinement.	1,695	328,022	1,704	337,173	1,704	331,622	0	34,055	0	0	0	0	0	0	0	1,704	365,677	
Subtotal, Goal 3	4,836	1,038,147	4,884	1,063,283	4,884	1,047,927	0	53,665	0	0	0	0	0	0	0	4,884	1,101,592	
<b>TOTAL</b>	<b>5,238</b>	<b>1,195,000</b>	<b>5,286</b>	<b>1,230,681</b>	<b>5,286</b>	<b>1,216,555</b>	<b>62</b>	<b>59,601</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5,348</b>	<b>1,275,158</b>	



**Justifications for Technical and Base Adjustments**

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Pay and Benefits</b>			
1 <b>2017 Pay Raise - 1.6%</b> This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount request, \$8,235, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits	0	0	8,235
2 <b>Annualization of 2016 Pay Raise</b> This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3 percent included in the 2016 President's Budget. The \$2,275 requested represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$6,600 for pay and \$2,500 for benefits).	0	0	2,275
3 <b>Changes in Compensable Days</b> The decreased cost for two less compensable days in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$524,394 and applicable benefits \$193,902 by 262 compensable days is \$5,483.	0	0	-5,483
4 <b>Employees Compensation Fund</b> The \$416 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	416
5 <b>Health Insurance</b> Effective January 2017, the component's contribution to Federal employees' health insurance increases by 3.4 percent. Applied against the 2016 estimate of \$44,187, the additional amount required is \$1,523.	0	0	1,523
6 <b>Retirement</b> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year, for both LEO and Non-LEO, based on the past 5 years of DOJ retirement data. The requested increase of \$482 is necessary to meet USMS's increased retirement obligations as a result of this conversion.	0	0	482
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>7,448</b>



**Justifications for Technical and Base Adjustments**

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
<b>Domestic Rent and Facilities</b>			
1 <b>GSA Rent</b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested decrease of \$6,964 is required to meet USMS's commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied.	0	0	-6,964
2 <b>Guard Service</b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$295 is required to meet these commitments.	0	0	295
3 <b>Moves - FY 2016 Non-Recur</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This is the non-recurrence of the move costs associated with new office relocations provided in the FY 2016 Enacted appropriation.	0	0	-17,181
4 <b>Moves - FY 2017</b> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2017.	0	0	2,281
<b>Subtotal, Domestic Rent and Facilities</b>	<b>0</b>	<b>0</b>	<b>-21,569</b>
<b>Foreign Expenses</b>			
1 <b>Education Allowance</b> For employees stationed abroad, components are obligated to meet the educational expenses incurred by an employee in providing adequate elementary (grades K-8) and secondary (grades 9-12) education for dependent children at post. \$9 reflects the increase in cost to support existing staffing levels.	0	0	9



**Justifications for Technical and Base Adjustments**  
U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

	Direct	Estimate	Amount
	Pos.	FTE	
2 Foreign Affairs Counter-Threat (FACT) Training The FACT Training costs are developed using the number of personnel requiring the training, multiplied by estimated training costs and travel costs. This ATB may be adjusted the State Department certify that existing training for DOJ personnel satisfies the FACT requirement.	0	0	85
3 Post Allowance - Cost of Living Allowance (COLA) For employees stationed abroad, components are obligated to pay for their COLA. COLA is intended to reimburse certain excess costs and to compensate the employee for serving at a post where the cost of living, excluding the cost of quarters and the cost of education for eligible family members, is substantially higher than in the Washington, DC area. \$1, reflects the increase in cost to support the existing staffing levels.	0	0	1
<b>Subtotal, Foreign Expenses</b>	<b>0</b>	<b>0</b>	<b>95</b>
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	<b>0</b>	<b>0</b>	<b>-14,026</b>



## Crosswalk of 2015 Availability

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount		Direct Pos.	Actual FTE	Amount
Judicial and Courthouse Security	2,222	1,880	461,795	0	0	18,779	3,311	1,772		2,222	1,880	485,657
Fugitive Apprehension	1,744	1,649	402,681	0	0	17,779	3,866	1,578		1,744	1,649	425,904
Prisoner Security & Transportation	1,204	1,027	253,381	0	0	10,297	1,816	972		1,204	1,027	266,466
Protection of Witnesses	207	146	35,715	0	0	1,464	258	138		207	146	37,575
Tactical Operations	177	174	41,428	0	0	1,815	320	171		177	174	43,734
<b>Total Direct</b>	<b>5,554</b>	<b>4,876</b>	<b>1,195,000</b>	<b>0</b>	<b>0</b>	<b>50,134</b>	<b>9,571</b>	<b>4,631</b>		<b>5,554</b>	<b>4,876</b>	<b>1,259,336</b>
Balance Rescission								0				0
Total Direct with Rescission								4,631				1,259,336
Reimbursable FTE		362			0						362	
Total Direct and Reimb. FTE		5,238			0						5,238	
Other FTE:												
LEAP FTE		760			0						760	
Overtime		63			0						63	
<b>Grand Total, FTE</b>		<b>6,061</b>			<b>0</b>						<b>6,061</b>	

### Reprogramming/Transfers:

Transfers amounting to \$50,134,331 are comprised of actual unobligated balance and appropriation transfers.

Unobligated balance transfer \$20,027,183 includes:

- A transfer of \$20,000,000 to S&E No-Year (15-X-0324) from prior year S&E appropriations.
- A transfer out of \$84,999 from S&E Multi-Year (15-1415-0324) to High Intensity Drug Trafficking Area (HIDTA 11-1415-1070). Transfers in include \$112,182 to S&E Multi-Year (15-1415-0324) from HIDTA (11-1415-1070)

Non-expenditure transfer of appropriation \$30,107,148 includes:

- A transfer-in of \$29,295,725 from Spectrum (11-X-5512) to S&E No-Year (15-X-0324)
- A transfer out of \$407,350 from S&E No-Year (15-X-0324) to Justice Information Sharing Technology (15-X-0134)
- A transfer-in of \$1,218,973 to S&E Multi-Year (15-1516-0324) from HIDTA (11-1516-1070).

### Carryover:

Unobligated balances brought forward amounting to \$9,570,503 include \$950,794 from S&E Multi-Year (15-1415-0324) and \$8,619,709 from S&E No-Year (15-X-0324).

### Recoveries/Refunds:

Recoveries from prior year obligations of \$4,631,210 from S&E No-Year (15-X-0324) include \$551,673 to support information technology enhancements, and \$18,110 from HIDTA (11-1415-1070) for HIDTA task force-related activities. Sources from Refunds and other collections of \$4,061,427 include Service of Process Fees, Visa Rebates, Proceeds from Vehicle Sales, Purchase Refunds, and Commissions.



## G. Crosswalk of 2016 Availability

**Crosswalk of 2016 Availability**

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Judicial and Courthouse Security	2,222	1,880	472,738	0	0	5,772	19,358	3,418	2,222	1,880	501,286
Fugitive Apprehension	1,744	1,649	416,216	0	0	5,203	18,180	3,012	1,744	1,649	442,811
Prisoner Security & Transportation	1,204	1,027	259,301	0	0	3,166	10,619	1,875	1,204	1,027	274,961
Protection of Witnesses	207	146	36,734	0	0	449	1,507	266	207	146	38,956
Tactical Operations	177	174	45,592	0	0	558	1,870	330	177	174	48,350
<b>Total Direct</b>	<b>5,554</b>	<b>4,876</b>	<b>1,230,581</b>	<b>0</b>	<b>0</b>	<b>15,148</b>	<b>51,534</b>	<b>8,901</b>	<b>5,554</b>	<b>4,876</b>	<b>1,306,164</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			1,230,581			15,148	51,534	8,901			1,306,164
Reimbursable FTE		410			0					410	
Total Direct and Reimb. FTE		5,286			0					5,286	
Other FTE:											
LEAP FTE		760			0					760	
Overtime		63			0					63	
<b>Grand Total, FTE</b>		<b>6,109</b>			<b>0</b>					<b>6,109</b>	

**Reprogramming/Transfers:**

Transfers amounting to \$15,147,957 are comprised of actual and anticipated unobligated balance and appropriation transfers.

Actual unobligated balance transfers are \$15,118,830 and includes:

- Transfer-in of \$118,830 to S&E Multi-Year (15-1516-0324) from HIDTA (11-1516-1070)

- Transfer from prior year S&E appropriation of \$15,000,000 to S&E No-Year (15-X-0324)

Anticipated unobligated balance transfer of \$29,127 from HIDTA (11-1516-1070) is also included.

**Carryover:**

Unobligated balances of \$51,533,615 brought forward include \$1,128,686 from HIDTA (11-1516-1070) and \$50,404,929 from S&E No-Year (15-X-0324).

**Recoveries/Refunds:**

Recoveries from prior year obligations are estimated at approximately \$3,000,000. This includes funding from S&E No-Year, to fill gaps in mission critical areas; and, \$873 from S&E Multi-Year (15-1516-0324). Sources from Refunds and other collections estimated at \$5,700,000 include Service of Process Fees, Visa Rebates, Proceeds from Vehicle Sales, Purchase Refunds, and Commissions.



## Summary of Reimbursable Resources

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
U.S. Courts	72	57	257	72	72	500	72	72	500	0	0
Asset Forfeiture Fund	254	212	0	254	254	0	254	254	0	0	0
Centers for Disease Control	36	34	8,133	36	36	7,872	36	36	7,872	0	0
Department of Defense	0	0	117	0	0	545	0	0	545	0	0
Department of Homeland Security	0	0	2,053	0	0	729	0	0	729	0	0
Department of Justice	3	3	1,495	4	4	2,357	4	4	2,357	0	0
Department of State	0	0	1,151	0	0	2,561	0	0	2,561	0	0
U S Tax Court	3	3	2,177	3	3	2,687	3	3	2,687	0	0
Federal Bureau of Investigation	3	2	499	3	3	2,885	3	3	2,885	0	0
Federal Law Enforcement Training Center	0	0	0	0	0	15	0	0	15	0	0
Office of National Drug Control Policy	8	8	326	0	0	0	0	0	0	0	0
Organized Crime Drug Enforcement Task Force	40	36	8,408	39	38	10,391	39	38	10,391	0	0
Service of Process	7	7	0	0	0	750	0	0	750	0	0
U.S. Attorneys	0	0	110	0	0	412	0	0	412	0	0
Various Federal Sources	0	0	657	0	0	2,950	0	0	2,950	0	0
<b>Budgetary Resources</b>	<b>426</b>	<b>362</b>	<b>25,383</b>	<b>411</b>	<b>410</b>	<b>34,654</b>	<b>411</b>	<b>410</b>	<b>34,654</b>	<b>0</b>	<b>0</b>

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
Judicial and Courthouse Security	85	70	5,443	77	77	8,701	77	77	8,701	0	0
Fugitive Apprehension	303	256	9,087	296	295	12,974	296	295	12,974	0	0
Prisoner Security & Transportation	0	0	0	0	0	0	0	0	0	0	0
Protection of Witnesses	1	1	0	1	1	782	1	1	782	0	0
Tactical Operations	37	35	10,853	37	37	12,197	37	37	12,197	0	0
<b>Budgetary Resources</b>	<b>426</b>	<b>362</b>	<b>25,383</b>	<b>411</b>	<b>410</b>	<b>34,654</b>	<b>411</b>	<b>410</b>	<b>34,654</b>	<b>0</b>	<b>0</b>

Note: The reimbursable amounts reported in MAX A-11 are \$2,000,000 above FY 2016 and FY 2017 because Proceeds from Sale of Vehicles was included in error.



## I. Detail of Permanent Positions by Category

## Detail of Permanent Positions by Category

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2018 Enacted		ATBs	FY 2017 Request		Total Reimb. Pos.
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.		Program Increases	Program Offsets	
Miscellaneous Operations (001-099)	3	0	3	0	0	0	0	0
Security Specialists (080)	26	25	26	25	0	0	0	25
Social Science, Psychology, Welfare (0100-0199)	5	0	5	0	0	0	0	0
Intelligence Series (132)	45	3	45	3	0	4	0	3
Personnel Management (0200-0260)	43	3	43	3	0	0	0	3
Clerical and Office Services (0300-0399)	801	118	798	118	0	3	0	118
Accounting and Budget (500-599)	136	16	136	16	0	0	0	16
Medical, Dental & Public Health (600-799)	3	1	3	1	0	0	0	1
Engineering and Architecture Group (800-899)	2	2	2	2	0	0	0	2
Architects	3	0	3	0	0	0	0	0
Attorneys (905)	19	3	22	3	0	0	0	3
Paralegal Specialist (0950)	1	0	1	0	0	0	0	0
Information & Arts (1000-1099)	12	0	12	0	0	0	0	0
Business & Industry (1100-1199)	97	84	97	84	0	0	0	84
Mathematics and Statistics Group	3	0	3	0	0	0	0	0
Equipment/Facilities Services (1600-1699)	4	0	4	0	0	0	0	0
Misc. Inspectors/Investigative Assistants (1802)	114	0	114	0	0	0	0	0
Criminal Investigative Series (1811)	4,134	168	4,134	153	0	0	0	153
Transportation (2100-2199)	6	0	6	0	0	58	0	0
Information Technology Mgmt (2210-2299)	97	3	97	3	0	1	0	0
<b>Total</b>	<b>5,554</b>	<b>426</b>	<b>5,554</b>	<b>411</b>	<b>0</b>	<b>66</b>	<b>0</b>	<b>411</b>
Headquarters Washington D.C.	721	157	721	157	0	6	0	157
US Fields	4,816	266	4,816	251	0	60	0	251
Foreign Field	17	3	17	3	0	0	0	3
<b>Total</b>	<b>5,554</b>	<b>426</b>	<b>5,554</b>	<b>411</b>	<b>0</b>	<b>66</b>	<b>0</b>	<b>411</b>



Financial Analysis of Program Changes

U.S. Marshals Service  
Salaries and Expenses  
(dollars in thousands)

Grades	Judicial and Courtroom Security			Fugitive Apprehension			Prisoner Security & Transportation		
	Program Increases	Program Decreases	Amount	Program Increases	Program Decreases	Amount	Program Increases	Program Decreases	Amount
GS-9	1	71	0	71	495	0	0	0	0
GS-7	2	18	0	0	10	0	0	0	0
Total Positions and Annual Amount	3	264	0	62	10,863	0	1	82	0
Lapses (L)	-2	-127	0	-2	-5,432	0	0	-46	0
11.5 - Other personnel compensation	0	0	0	0	0	0	0	0	0
Total FTEs and Personnel Compensation	1	127	0	60	5,431	0	1	46	0
21.0 - Travel and transportation of persons	1	103	0	0	174	0	0	57	0
22.0 - Transportation of things	0	0	0	0	2	0	0	0	0
23.1 - Rental payments to others	3	3	0	0	80	0	0	0	0
23.2 - Rental payments to others	0	0	0	0	215	0	0	2	0
24.0 - Prison and reproduction	0	0	0	0	1	0	0	0	0
25.1 - Advisory and assistance services	93	0	0	0	1,966	0	0	49	0
25.2 - Other services from non-federal sources	3,272	0	0	0	4,827	0	0	1,786	0
25.3 - Other goods and services from federal sources	0	0	0	0	0	0	0	0	0
25.6 - Medical care	1	0	0	0	30	0	0	0	0
26.0 - Supplies and materials	543	0	0	0	2,227	0	0	295	0
31.0 - Equipment	8,883	0	0	0	19,105	0	0	4,841	0
Total Program Change Requests	1	13,074	0	60	34,055	0	1	7,081	0

Grades	Protection of Witnesses			Tactical Operations			Total Program Changes		
	Program Increases	Program Decreases	Amount	Program Increases	Program Decreases	Amount	Program Increases	Program Decreases	Amount
GS-9	0	0	0	0	0	0	0	8	565
GS-7	0	0	0	0	0	0	0	93	10,843
Lapses (L)	0	0	0	0	0	0	0	61	1,429
11.5 - Other personnel compensation	0	0	0	0	0	0	0	-4	-3,080
Total FTEs and Personnel Compensation	0	0	0	0	0	0	62	5,804	0
21.0 - Travel and transportation of persons	8	0	0	10	0	0	352	0	2
22.0 - Transportation of things	0	0	0	0	0	0	0	85	0
23.1 - Rental payments to others	0	0	0	0	0	0	0	0	0
23.2 - Rental payments to others	0	0	0	0	0	0	0	224	0
24.0 - Prison and reproduction	0	0	0	0	0	0	0	0	0
25.1 - Advisory and assistance services	4	0	0	1,593	0	0	3,705	0	0
25.2 - Other services from non-federal sources	231	0	0	312	0	0	10,450	0	0
25.3 - Other goods and services from federal sources	0	0	0	0	0	0	0	0	0
25.6 - Medical care	40	0	0	49	0	0	3	154	0
26.0 - Supplies and materials	673	0	0	1,511	0	0	34,863	0	0
31.0 - Equipment	0	370	0	0	3,478	0	62	26,000	0
Total Program Change Requests	0	370	0	0	3,478	0	62	26,000	0



## K. Summary of Requirements by Object Class

## Summary of Requirements by Object Class

U.S. Marshals Service  
Salaries and Expenses  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	4,870	418,081	4,967	431,645	4,929	437,563	62	5,918
11.3 - Other than full-time permanent	6	13,589	9	14,224	9	14,315	0	91
11.5 - Other personnel compensation	823	85,846	823	90,087	823	91,317	0	1,230
Overline	63	5,053	63	6,000	63	6,000	0	0
Other Compensation	760	80,793	760	84,087	760	85,317	0	1,230
11.8 - Special personal services payments	0	4,754	0	6,000	0	6,000	0	0
<b>Total</b>	<b>5,699</b>	<b>522,270</b>	<b>5,699</b>	<b>541,956</b>	<b>5,761</b>	<b>549,195</b>	<b>62</b>	<b>7,239</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		240,645		248,456		254,276	0	5,820
13.0 - Benefits for former personnel		165		165		165	0	0
21.0 - Travel and transportation of persons		21,859		21,492		21,844	0	352
22.0 - Transportation of things		1,272		1,263		1,265	0	2
23.1 - Rental payments to GSA		192,999		213,767		209,337	0	-4,430
23.2 - Rental payments to others		12,064		4,491		2,042	0	-2,449
23.3 - Communications, utilities, and miscellaneous charges		23,271		23,175		23,399	0	224
24.0 - Printing and reproduction		268		268		269	0	1
25.1 - Advisory and assistance services		22,517		20,555		24,260	0	3,705
25.2 - Other services from non-federal sources		19,934		21,315		31,853	0	10,538
25.3 - Other goods and services from federal sources		69,579		59,621		45,016	0	-14,605
25.4 - Operation and maintenance of facilities		7,708		7,454		7,454	0	0
25.6 - Medical care		46		46		77	0	31
25.7 - Operation and maintenance of equipment		25,047		26,969		26,969	0	0
26.0 - Supplies and materials		18,448		18,168		21,342	0	3,154
31.0 - Equipment		22,768		20,655		55,648	0	34,993
32.0 - Land and structures		27		26		26	0	0
42.0 - Insurance claims and indemnities		720		719		719	0	0
<b>Total Obligations</b>		<b>1,201,627</b>		<b>1,230,581</b>		<b>1,275,156</b>	<b>0</b>	<b>44,575</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-8,571		-51,534		-75,583	0	-24,049
Transfers/Reprogramming		-50,134		-15,148		0	0	15,148
Recoveries/Refunds		-4,631		-8,901		0	0	8,901
Balance Rescission		0		0		0	0	0
Unobligated End-of-Year, Available		51,534		75,583		75,583	0	0
Unobligated End-of-Year, Expiring		6,175		0		0	0	0
<b>Total Direct Requirements</b>		<b>1,195,000</b>		<b>1,230,581</b>		<b>1,275,156</b>		<b>44,575</b>
Reimbursable FTE	362		410		410		0	0
Full-Time Permanent								

Exhibit K - Summary of Requirements by Object Class



U. S. Marshals Service

Salaries and Expenses  
(Dollars in Thousands)

Status of Congressionally Requested Studies, Reports, and Evaluations

1. The Senate Report associated with the Consolidated and Further Continuing Appropriation Act, 2016, page 126 directs the USMS to provide a report detailing the initial and out-year costs and resource needs, including space requirements, to stand up a new RFTF as well as available locations for an expansion not later than 90 after enactment of this act.



**Summary of Requirements**  
U.S. Marshals Service  
Construction  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
2015 Enacted 1/	0	0	9,800
Total 2015 Enacted	0	0	9,800
2016 Enacted	0	0	15,000
Base Adjustments			
2017 Current Services	0	0	15,000
Program Changes			
Offsets:			
Program Offset - Construction	0	0	-5,000
Subtotal, Offsets	0	0	-5,000
Total Program Changes	0	0	-5,000
2017 Total Request	0	0	10,000
2016 - 2017 Total Change	0	0	-5,000

<sup>1/</sup> FY 2015 FTE is actual



**Summary of Requirements**  
**U.S. Marshals Service**  
**Construction**  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
USMS Construction	0	0	9,800	0	0	15,000	0	0	0	0	0	15,000
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>9,800</b>	<b>0</b>	<b>0</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>15,000</b>
Balance Rescission												
<b>Total Direct with Rescission</b>												
Reimbursable FTE			9,800									0
<b>Total Direct and Reimb. FTE</b>		0			0	15,000		0				15,000
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>0</b>			<b>0</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
USMS Construction	0	0	0	0	0	-5,000	0	0	10,000
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-5,000</b>	<b>0</b>	<b>0</b>	<b>10,000</b>
Balance Rescission									
<b>Total Direct with Rescission</b>									
Reimbursable FTE			0			-5,000			10,000
<b>Total Direct and Reimb. FTE</b>		0			0			0	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>0</b>	



**FY 2017 Program Changes by Decision Unit**  
U.S. Marshals Service  
Construction  
(Dollars in Thousands)

Program Offsets	Location of Description by Program Activity	USMS Construction				Total Offsets			
		Direct Pos.	Agt./Atty.	Est. FTE	Amount	Direct Pos.	Agt./Atty.	Est. FTE	Amount
Program Offset - Construction	98	0	0	0	-5,000	0	0	0	-5,000
<b>Total Program Offsets</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>-5,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>-5,000</b>



**Resources by Department of Justice Strategic Goal and Objective**  
U.S. Marshals Service  
Construction  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Current		FY 2017 Increases		FY 2017 Offsets		FY 2017 Total Request	
	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount	Direct & Reimb FTE	Direct Amount
Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels	0	9,800	0	15,000	0	15,000	0	0	0	-5,000	0	10,000
3.2 Protect judges, witnesses, and other participants in federal proceedings by anticipating, deterring, and investigating threats of violence.	0	9,800	0	15,000	0	15,000	0	0	0	-5,000	0	10,000
Subtotal, Goal 3	0	9,800	0	15,000	0	15,000	0	0	0	-5,000	0	10,000
TOTAL	0	9,800	0	15,000	0	15,000	0	0	0	-5,000	0	10,000



**Crosswalk of 2015 Availability**  
**U.S. Marshals Service**  
**Construction**  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/ Transfers			Carryover		Recoveries/ Refunds		FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount		Amount		Direct Pos.	Actual FTE	Amount
USMS Construction	0	0	9,800	0	0	0	2,345		1,334		0	0	13,479
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>9,800</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2,345</b>		<b>1,334</b>		<b>0</b>	<b>0</b>	<b>13,479</b>
Balance Rescission						0	0		0				0
Total Direct with Rescission						9,800			1,334				13,479
Reimbursable FTE													
Total Direct and Reimb. FTE		0			0							0	
		0			0							0	
Other FTE:													
LEAP FTE		0			0							0	
Overtime		0			0							0	
Grand Total, FTE		0			0							0	

**Carryover:**

Unobligated Balances of \$2,345,038 that were carried over from FY 2014 Construction No-Year (15-X-0133) for courthouse renovation and related costs.

**Recoveries/Refunds:**

Recoveries from Prior Year obligations amounting to \$1,333,358 from Construction No-Year (15-X-0133) for construction purposes which are consistent with the manner in which funding was originally appropriated. Refund of \$569 is also included.



**Crosswalk of 2016 Availability**  
U.S. Marshals Service  
Construction  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/ Transfers			Carryover		Recoveries/ Refunds		FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Pos.	Amount		Direct Pos.	Est. FTE	Amount
USMS Construction	0	0	15,000	0	0	0	1,109	0	2,049		0	0	18,158
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1,109</b>	<b>0</b>	<b>2,049</b>		<b>0</b>	<b>0</b>	<b>18,158</b>
Balance Rescission				0		0	0		0				0
Total Direct with Rescission							1,109		2,049				18,158
Reimbursable FTE			15,000										
Total Direct and Reimb. FTE													
Other FTE:													
LEAP FTE													
Overtime													
Grand Total, FTE													

**Carryover:**

Unobligated Balances of \$1,108,527 that were carried over from FY 2016 include \$1,107,959 from Construction No-Year (15-X-0133) and \$568 from Construction Multi-Year (15-1011-0133) for courthouse renovation and related costs.

**Recoveries/Refunds:**

Recoveries from Prior Year obligations are estimated at approximately \$2,000,000 from Construction No-Year (15-X-0133). The USMS plans to use these funds for construction purposes w/ are consistent with the manner in which funding was originally appropriated.



**Financial Analysis of Program Changes**  
U.S. Marshals Service  
Construction  
(Dollars in Thousands)

Grades	USMS Construction				Total Program Changes	
	Program Increases		Program Decreases			
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
No grades		0	0	0	0	0
Total Positions and Annual Amount		0	0	0	0	0
Lapse (-)		0	0	0	0	0
11.5 - Other personnel compensation						
Total FTEs and Personnel Compensation		0	0	0	0	0
32.0 - Land and structures						
Total Program Change Requests		0	0	0	-5,000	-5,000



# Summary of Requirements by Object Class

U.S. Marshals Service  
Construction  
(Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	0	0	0	0	0	0	0	0
11.3 - Other than full-time permanent	0	0	0	0	0	0	0	0
11.5 - Other personnel compensation	0	0	0	0	0	0	0	0
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	0	0	0	0	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Other Object Classes</b>								
21.0 - Travel and transportation of persons		149		0		0		0
23.3 - Communications, utilities, and miscellaneous charges		16		0		0		0
25.3 - Other goods and services from federal sources		-37		0		0		0
25.4 - Operation and maintenance of facilities		2,000		2,000		2,000		0
25.7 - Operation and maintenance of equipment		25		0		0		0
31.0 - Equipment		2,712		3,000		3,000		0
32.0 - Land and structures		7,505		10,000		5,000		-5,000
<b>Total Obligations</b>		<b>12,370</b>		<b>15,000</b>		<b>10,000</b>		<b>-5,000</b>
Unobligated Balance, Start-of-Year		-2,345		-1,109		-3,158		-2,049
Transfers/Reprogramming		0		0		0		0
Recoveries/Refunds		-1,334		-2,049		-2,000		49
Balance Rescission		0		0		0		0
Unobligated End-of-Year, Available		1,109		3,158		5,158		2,000
Unobligated End-of-Year, Expiring		0		0		0		0
<b>Total Direct Requirements</b>		<b>9,800</b>		<b>15,000</b>		<b>10,000</b>		<b>-5,000</b>
Reimbursable FTE								
Full-Time Permanent	0		0		0		0	0



**United States Marshals Service  
FY 2017 Performance Budget  
President's Budget Submission**

**Justice Prisoner and Alien Transportation System  
Revolving Fund**



February 2016



**Fiscal Year (FY) 2017 Budget Estimates  
Justice Prisoner and Alien Transportation System  
United States Marshals Service  
February 2016**

***Table of Contents***

I. Overview .....	2
A. Budget Assumptions.....	3
B. Efficiencies and Savings.....	3
C. Budget Summary .....	4
D. Revenues and Expenses .....	5
II. JPATS Performance Challenges .....	6
Transporting Prisoners in a Safe, Timely, and Economical Manner.....	6
1. Conduct Safe, Secure, Humane Prisoner Transport.....	6
2. Transport Prisoners in a Timely Manner .....	6
3. Transport Prisoners in an Economical Manner.....	7
III. Performance Tables.....	8
Performance and Resources Table .....	8
Definition of Terms or Explanations for Indicator.....	9
Performance Measure Table .....	10
Performance, Resources, and Strategies .....	11
IV. JPATS Operating Budget.....	12
Chart 1.....	12
Chart 2.....	13
Chart 3.....	14
V. USMS JPATS Exhibits	
A. Organizational Chart	
B. Summary of Requirements	
D. Resources by DOJ Strategic Goals and Strategic Objective	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
K. Summary of Requirements by Object Class	
M. Schedule of Aircraft	



## I. Overview

The Justice Prisoner and Alien Transportation System (JPATS) mission is to coordinate and transport prisoners and detainees safely, securely, and humanely, in a timely and economical manner. JPATS is a revolving fund with total operating costs being reimbursed by customer agencies. JPATS coordinates the movement of federal prisoners and detainees, including sentenced, pretrial and criminal aliens, in the custody of the U.S. Marshals Service (USMS) and the Bureau of Prisons (BOP). JPATS also transports Department of Defense and state and local prisoners on a reimbursable, space-available basis.

Using projected prisoner movement requirements provided by the customers, JPATS projects total costs associated with air transportation. OMB Circular A-126 guidelines are utilized to identify fixed and variable air transportation cost categories, and using activity based costing, flying hour rates are developed. Customers are billed based on the number of flight hours and the number of seats utilized to move their prisoners/detainees.

The JPATS Revolving Fund provides numerous benefits, including, but not limited to: 1) it is a no-year account with a consistent funding stream from the customer agencies; 2) it operates under the concept of full-cost recovery; 3) it provides for multi-year funding/leasing authority for capital acquisitions; and 4) it has authority to retain proceeds from the disposal of JPATS' aircraft, support equipment and parts. The JPATS Revolving Fund provides stability in costs to the customer agencies since the fund can absorb, on a short-term basis, cost fluctuations for operating expenses such as fuel and aircraft maintenance. It also simplifies the task of replacing aircraft and obtaining major aircraft parts by enabling JPATS to extend the cost of equipment purchases or equipment leases over several years, and to plan the procurement of equipment, or equipment lease agreements when needed.

JPATS is committed to ensuring each scheduled mission is properly staffed with a well-trained crew of professionals. Each mission includes qualified flight personnel to safely operate the aircraft. Experienced law enforcement/security officers ensure the safe and secure transfer of prisoners and safety of the crew. At least one certified medical specialist validates prisoners have the required screenings and medical records and are medically stable and fit to fly.



### A. Budget Assumptions

JPATS continues to look for opportunities to optimize the transportation network and produce efficiencies for the customer. The key assumptions for this budget formulation include:

- Large aircraft maintenance increases are developed based on current year actual expenses.
- The price per gallon of jet fuel continues to fluctuate due to the changing market.
- The acquired 737-400 aircraft result in significant savings to the customers.

### B. Efficiencies and Savings

JPATS continually examines its operational areas seeking to increase efficiency and improve the quality of services to generate savings for the customer agencies.

**JPATS Efficiencies:** JPATS continues to lead optimization efforts to improve performance in the delivery of services and gain efficiencies in both time and cost. Central to JPATS' program initiatives is the data and analysis made possible through the JPATS' Management Information System (JMIS). More accurate and timely data is now available to help management analyze program areas. Working both internally and externally across its customer base, JPATS is using performance data to identify potential problems, create viable solutions and thus drive program improvement. JPATS measures and monitors weekly and monthly performance and reports quarterly performance to its customers and the JPATS Executive Committee (JEC).

**JPATS Savings:** JPATS projected that the acquisition of two 737 aircraft versus the continued leasing of two MD-80 aircraft would result in a yearly savings of approximately six million dollars per year. Since purchasing the aircraft in FY 2013, actual savings have exceeded this estimate as the combined costs incurred for owning – including aircraft maintenance, depreciation, capital investment, and replacement leases for extended maintenance – are less than the cost of the long-term aircraft lease. In addition to cost savings, owned-and-operated aircraft provide greater operational flexibility and, in the case of the large aircraft operational profile, less of a security risk. Finally, due to a reduction in fuel burn rate of over 200 gallons per flight hour, the change in aircraft type has provided a positive environmental impact.

In 2015, JPATS conducted a small aircraft program review and solicited customer input to determine its small aircraft program total cost of ownership was misaligned with actual customer demand. As such, the cost of small aircraft flight hours continued to rise at an alarming rate. After securing a more cost-effective small aircraft lease alternative, the JEC approved the sale of the two Hawker aircraft resulting in a return of capital investment funds to the revolving account and, more significantly, a substantial reduction in FY 2016 and FY 2017 flight hour rates for the small aircraft mission.

JPATS renewed its Universal Service (maintenance) Agreement with the Federal Aviation Administration (FAA) for the thirteenth consecutive year, including the 737 aircraft for the second year. The FAA services all JPATS-owned aircraft, thus achieving the best value for the government.

JPATS conducted a large aircraft contingency assessment and a “lease to own” procurement proof of concept to cover missions when one of the owned 737s was down for maintenance. The options



for procurement were wet lease, dry lease, or purchase. The results indicated that a purchase would have a significant cost avoidance potential over the next 20 years. JPATS currently has a lease for a replacement plane. The terms of the lease give JPATS the option to purchase the plane. The decision to purchase, or not, will be made after the second quarter of FY 2016.

### C. Budget Summary

The following table provides the JPATS Revolving Fund program estimates for Obligation Authority (OA) and Personnel Data. The OA requested is based upon the customers' projected requirements and estimated carry forward authority for FY 2016 and FY 2017.

### Financial Operations, 2017

(Dollars in Thousands)

Operating	49,540	55,971	53,211
Less Depreciation	<u>(2,244)</u>	<u>(3,055)</u>	<u>(1,646)</u>
Operating Authority	47,296	52,916	51,565
*Carry Forward Authority	<u>24,626</u>	<u>24,626</u>	<u>24,626</u>
Total Authority	71,922	77,542	76,191

#### Staffing

Civilian Positions	123	123	123
Civilian End Strength	96	107	108
Personal Contract Guards	90	90	90

Average GS Salary	86,927	88,418	90,110
Average SES Salary	177,275	180,912	186,614

\*Carry Forward Authority from FY 2015 SF-133, "Report on Budget Execution and Budgetary Resource," dated September 30, 2015



**D. Revenues and Expenses****Revenues and Expenses, 2017**

(Dollars in Thousands)

	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>
Revenue	49,267	55,971	53,211
Cost Of Operations (Includes Depreciation)	<u>(51,432)</u>	<u>(55,971)</u>	<u>(53,211)</u>
Operating Results	(2,165)	0	0
Adjustment - Other	<u>0</u>	<u>0</u>	<u>0</u>
Net Operating Results (NOR)	(2,165)	0	0
 Prior Year Accumulated Operating Results (AOR)	 1,235	 (930)	 (930)
AOR Adjustments	<u>0</u>	<u>0</u>	<u>0</u>
Net Accumulated Operating Results (AOR)	(930)	(930)	(930)

**The actual FY 2015 AOR results are reported as well as the anticipated AOR for FY 2016 and FY 2017. The Revenue and Expenses chart on page 14 provides the corollary details.**



## II. JPATS Performance Challenges

### Transporting Prisoners in a Safe, Timely, and Economical Manner

**Challenge:** JPATS must continue to successfully transport prisoners safely, timely, and economically with limited resources to provide the best value to its customers. JPATS must look for innovative solutions to create greater efficiency and sustain optimum program performance within the current transportation infrastructure.

#### 1. Conduct Safe, Secure, Humane Prisoner Transport

**Strategy: Increase intelligence capability to improve the quality and timeliness of intelligence and reduce threat.** JPATS is building the capabilities to research and produce quality and timely intelligence on prisoner attributes and operational threats which is critical to safe and secure missions. JPATS is creating an Intelligence Research Specialist program that ties into intelligence assets across the USMS and BOP to develop and share prisoner attributes and threat information relevant to prisoner operations and transportation. JPATS continues to increase the capture of prisoner attribute data in JMIS and has developed daily intelligence products for its crews to access through mobile devices.

**Strategy: Ensure safe and reliable aviation mission execution while minimizing risk.** JPATS is leveraging new aviation technologies to minimize safety and operational effectiveness risks. JPATS' large aircraft are undergoing upgrades to avionics and navigations systems to meet the Federal Aviation Administration's (FAA) NextGen compliance requirements. This will ensure access to airspace and airports needed to service the mission as well as increase flight safety margins. JPATS is implementing industry best practices" by adding analysis tools to its Safety Management System (SMS) that will predict and mitigate significant risks of future incidents or accidents.

#### 2. Transport Prisoners in a Timely Manner

**Strategy: Reduce Scheduling Process Time and Movement Request Backlog.** JPATS continues to optimize the JMIS Assisted Routing and Scheduling System (JARS), which plans the trips and routes of routine prisoner transportation through automated processes. JARS schedules nearly 60% of JPATS prisoner movement requests, 77% of which are completed as scheduled, allowing schedulers to focus on high-priority and more complex prisoner transportation schedules. JPATS continuously monitors and assesses movement request timelines to ensure maximum delivery with minimal backlog. The greatest percentage of backlogged prisoners results from designated prisoners being delayed in transit due to lack of bed space at their final BOP destination. JPATS is partnering with the BOP to leverage facility bed space data and integrate with JMIS movement request destination data to achieve greater efficiencies and reduce timelines for prisoner scheduling to final destination.



### 3. Transport Prisoners in an Economical Manner

**Strategy: Utilize the Most Economic Bed Space Pre/In-Transit.** JPATS continues to develop methods and procedures to move prisoners awaiting movement from high-cost jail beds to lower-cost beds during the pre-transit status. Likewise, JPATS continues to house prisoners-in-transit in the most economical jail beds available while at the same time reducing to the greatest extent possible the number of days a prisoner is in both pre- and in-transit status.



### III. Performance Tables

PERFORMANCE AND RESOURCES TABLE										
Decision Unit: Justice Prisoner and Alien Transportation System										
RESOURCES										
	Target		Actual		Projected		Changes		Requested (Total)	
	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
Total Costs and FTE	102	\$49,603	96	\$47,296	107	\$52,916	1	-\$1,351	108	\$51,565
	FY 2015		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request	
TYPE	PERFORMANCE		PERFORMANCE		PERFORMANCE		PERFORMANCE		PERFORMANCE	
Program Activity	Prisoner Movement		Prisoner Movement		Prisoner Movement		Prisoner Movement		Prisoner Movement	
Performance Measure: Workload	3.2	119,629	96	\$47,296	107	\$52,916	1	-\$1,351	108	\$51,565
Performance Measure: Outcome	3.2	119,629	111,540	119,629	119,629	119,629	(4,679)	(4,679)	115,000	115,000
	1. Number of requests for air and ground transportation of prisoners		2. Transportation Unit Cost		3. Transportation Unit Cost		4. Transportation Unit Cost		5. Transportation Unit Cost	
	\$1,350		\$1,282		\$1,300		\$0		\$1,300	



## **Definition of Terms or Explanations for Indicators.**

### **Workload:**

JPATS receives requests to move prisoners and determines the appropriate mode of transportation (i.e., ground and/or air movement). JPATS uses the JPATS Transportation module within the JMIS to schedule and track movements electronically.

**Total Workload:** Includes the number of ground, as well as air transportation requests. This gives a broad view of actions needed to facilitate prisoner movements.

### **Performance Measure:**

#### **1. Transportation Unit Cost**

- a. **Data Definition:** The total cost per prisoner (transportation coordinated by JPATS) incurred from the prisoner's point of origin to final destination. Component costs include the cost of transporting the prisoner (by air, bus, van, and car) and the cost of housing the prisoner while in-transit. The cost of BOP-provided in-transit housing and bus transportation is included as part of the reported costs.
- b. **Data Collection and Storage:** Data describing prisoner transportation and the costs associated with transportation and housing is maintained in several databases. The USMS JMIS data system maintains information describing prisoner movements such as the points of origin and final destination, how the prisoner was moved, and where the prisoner was housed, as applicable, while in-transit. JMIS also maintains information describing the cost of air movements and JPATS-coordinated ground transportation. BOP provides information describing the cost of BOP-sponsored bus transportation. The USMS Justice Detainee Information System (JDIS); and the eIGA system and other records managed by Federal Prisoner Detention (FPD), provide information describing the cost of non-federal housing. Data is maintained on each prisoner transported by JPATS. Data from the various systems is aggregated together by JMIS to determine the prisoner-specific total transportation costs.

- c. **Data Validation and Verification:** Component data is provided to JPATS by the various agencies. JPATS validates the data for completeness and to ensure that the data provided is within historical parameters.

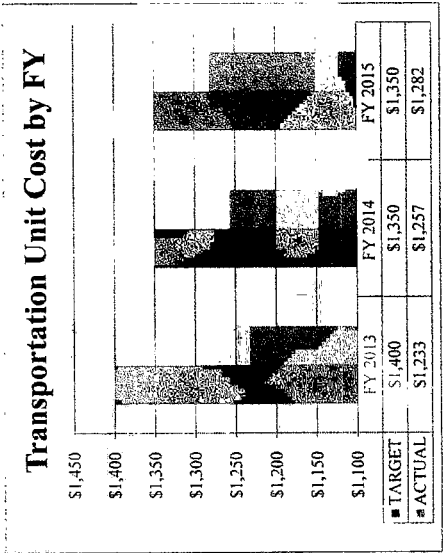
- d. **Data Limitations:** Maintaining prisoner transportation data is a labor-intensive process. The reliability of the component data is often compromised by invalid data entry. Accordingly, labor-intensive data analysis is often required to ensure that the data provided to JPATS passes certain logical tests. Additionally, data describing the cost of BOP-sponsored transportation is based on standardized formulae provided by the BOP for calculating the cost of operating their buses. The costs of BOP-provided in-transit housing are based on BOP-reported per capita cost of operating BOP facilities, particularly the Federal Transfer Center in Oklahoma City.

2. **Factors Affecting FY 2016 and FY 2017 Plans.** The USMS and JPATS' strategic plans encompass the efforts to optimize use of the transportation network. The performance metric captures the entire prisoner cost of transportation, including in-transit housing. Given finite resources and uncontrollable fuel prices, USMS must look for innovative solutions to create greater efficiency within the current infrastructure. The interdependence of transportation and housing precludes addressing one without the other. The measure of Transportation Unit Cost shows the cost effectiveness of strategies to reduce total transportation time, strategies to optimize routing (since there are normally several legs to the trip), strategies to maximize seat utilization, and strategies to utilize the most cost effective housing available.



PERFORMANCE MEASURE TABLE									
Strategic Objective	Decision Unit: Justice Prisoner and Alien Transportation System								
	Performance Report and Performance Plan Targets								
			FY 2013	FY 2014	FY 2015	FY 2016	FY 2017		
			Actual	Actual	Target	Actual	Target		
3.2	Performance Measure: Workload	1. Number of requests for air and ground transportation of prisoners.	124,412	117,235	119,629	111,540	119,629	115,000	
3.2	Performance Measure: Output	2. Transportation Unit Cost.	\$1,233	\$1,257	\$1,350	\$1,282	\$1,300	\$1,300	

Transportation Unit Cost: The FY 2017 target remains at \$1,300 per rate-based prisoner.  
Historical Transportation Unit Cost is depicted in the graph below.





## **Performance, Resources, and Strategies**

### **1. Performance Plan and Report for Outcomes**

JPATS strategic plan involves partnering with its customers to meet financial and management responsibilities for transporting prisoners, produce immediate positive results on daily operations, and promise improvement on a national level. JPATS will leverage JMIS OTM/JARS, explore the use of web-based software and integration with the advanced avionics on the large aircraft to advance these goals, and strive for outcomes that the partner agencies expect.

JMIS to JDIS Custody Housing integration eliminated 87% of the data entry from JDIS-maintained data. The automatic integration of JDIS custody records from JPATS movements in and out of JPATS RTCs/JTAs resulted in a reduction of time consuming data entry into JDIS to update custody and housing records. The JMIS to JDIS Custody Housing Data also includes validation reporting to improve data quality.

### **2. Strategies to Accomplish Outcomes**

JPATS will leverage automation to reduce/eliminate the paper-based processes and create dynamic-based scheduling that is responsive to facility capacity constraints. JPATS will leverage the upgraded avionics on the 737-400 aircraft that will provide improved communications, navigation, and flight-control systems.

JPATS will create a central repository for electronic prisoner data available via mobile devices with the ability to produce prisoner manifests with prisoner photos and key information. Use of mobile devices will improve in-flight weather tracking and communication with JPATS' dispatch. For medical technicians, mobile devices will improve in-flight productivity and communication with JPATS' medical officers to avoid/resolve prisoner refusal issues and prevent flight delays.

JPATS must manage the balance between effective law enforcement, cost, and crew duty restrictions. JPATS will conduct an assessment of the correct employee/contractor ratio, pursue scheduling alternatives and software tools to ensure personnel with special skill sets are available when needed. JPATS will develop training in recent advances in tactical and safety training programs for personal contract guards.



**IV. JPATS Operating Budget**

FY 2017 Budget Estimates  
Changes in the Costs of Operation

(Dollars in Thousands)

FY 2015 Actual Cost of Operations with Depreciation	51,432
Pricing Adjustment	
Aircraft Fuel	4,046
Aircraft Maintenance	72
Civilian Labor	1,130
Employee Training	440
Security Guards	(518)
Mission Support Expenses	(98)
Depreciation	811
Admin & Support Expenses	812
Non-Cap Equip Purchases/Rental	(2,034)
Other	<u>(122)</u>
Subtotal	4,539
FY 2016 Budget Estimate	55,971
Pricing Adjustments:	
Aircraft Fuel	(1,672)
Aircraft Maintenance	(1,995)
Aircraft Leases	1,377
Civilian Labor	224
Security Guards	689
Aircraft Depreciation	(1,405)
Medical Hospital Services	(165)
Other	<u>187</u>
Subtotal	(2,760)
FY 2017 Budget Estimate	53,211

Chart 1



FY 2017 Budget Estimates  
Sources of New Orders and Revenue

(Dollars in Thousands)

1. New Orders	<b>FY 2015*</b> <b><u>Actual</u></b>	<b>FY 2016</b> <b><u>Estimate</u></b>	<b>FY 2017</b> <b><u>Estimate</u></b>
a. Orders from Customers			
USMS	29,727	37,406	33,920
BOP	19,058	18,565	19,291
Other	482	0	0
a. Total Orders from Customers	49,267	55,971	53,211

\* FY 2015 orders based on JPATS Revenue reported on JPATS FY 2015 Income Statement

Chart 2



FY 2017 Budget Estimates  
Revenues and Expenses

Financial Operations  
(Dollars in Thousands)

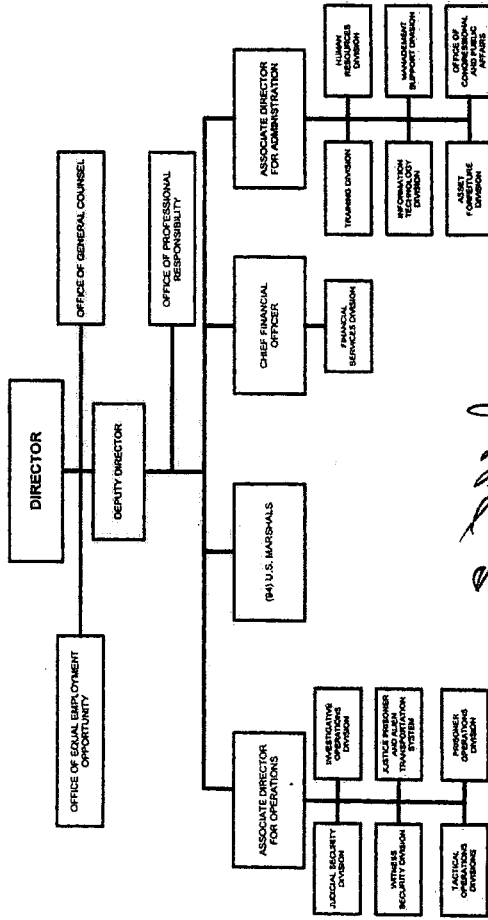
Revenue	FY 2015 Actual	FY 2016 Estimate	FY 2017 Estimate
Operations	49,267	55,971	53,211
Other Income			
<b>Total Revenue</b>	<b>49,267</b>	<b>55,971</b>	<b>53,211</b>
<b>Expenses</b>			
<i>Aircraft Operating Expenses</i>			
Aircraft Fuel	9,854	13,900	12,228
Aircraft Maintenance	10,144	10,216	8,221
Aircraft Leases	5,395	5,398	6,775
<i>Aircraft Operating Expenses Total</i>	<i>25,393</i>	<i>29,514</i>	<i>27,224</i>
<i>Labor Related Expenses</i>			
Civilian Labor	12,757	13,887	14,075
Employee Training	219	659	569
Guards, Contract Services	3,122	2,604	3,292
<i>Labor Related Expenses Total</i>	<i>16,098</i>	<i>17,150</i>	<i>17,936</i>
<i>Mission Support Expenses</i>			
Contract Crew	321	143	385
Aircraft Ground Spt Expenses	303	187	297
Navigation Data, Tech Periodicals	178	186	204
Medical/PHS Expenses	208	243	78
Mission Travel	502	655	695
<i>Mission Support Expenses Total</i>	<i>1,512</i>	<i>1,414</i>	<i>1,659</i>
<i>Non-Mission Support Expenses</i>			
Facilities Expenses	1,301	1,736	1,690
Admin & Support Expenses	1,472	2,284	2,151
Non-Cap Equip Purchases/Rental	2,172	138	193
Non-Mission Travel	275	472	474
Other Expenses	965	208	238
<i>Non-Mission Support Expenses Total</i>	<i>6,185</i>	<i>4,838</i>	<i>4,746</i>
<b>Total Expenses</b>	<b>49,188</b>	<b>52,916</b>	<b>51,565</b>
Operating Results	79	3,055	1,646
Depreciation	(2,244)	(3,055)	(1,646)
Net Operating Results	(2,165)	0	0
Prior Year Accumulated Operating Results	1,235	(930)	(930)
Accumulated Operating Result Adjustments	0	0	0
Net Accumulated Operating Results	(930)	(930)	(930)

Chart 3



A: Organizational Chart

UNITED STATES MARSHALS SERVICE



Approved by:  Date: 4/11/14  
ERIC H. HOLDER, JR.  
Attorney General



**Summary of Requirements**  
Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

<sup>11</sup> FY 2015 FTE is actual



B. Summary of Requirements

Summary of Requirements Justice Prisoner and Alien Transportation System Revolving Fund (Dollars in Thousands)												
Program Activity	2015 Operating Level			2016 Operating Level			2017 Changes to Operating Level			2017 Operating Level		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Justice Prisoner and Alien Transportation System	123	96	47,296	123	107	52,916	0	1	-1,351	123	108	51,565
Grand Total FTE		96			107			1			108	



D. Resources by DOJ Strategic Goal and Strategic Objective

**Resources by Department of Justice Strategic Goal/Objective**

Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2015 Operating Level			2016 Operating Level			2017 Changes to Operating Level			2017 Operating Level		
	Direct/ Reimb FTE	Direct Amount		Direct/ Reimb FTE	Direct Amount		Direct/ Reimb FTE	Direct Amount		Direct/ Reimb FTE	Direct Amount	
<b>Goal 3 Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels.</b>												
3.2 Protect judges, witnesses, and other participants in federal proceedings; apprehend fugitives; and ensure the appearance of criminal defendants for judicial proceedings or confinement.	96	47,296		107	52,916		1	-1,351		108	51,565	
<b>Subtotal, Goal 3</b>	<b>96</b>	<b>47,296</b>		<b>107</b>	<b>52,916</b>		<b>1</b>	<b>-1,351</b>		<b>108</b>	<b>51,565</b>	
<b>TOTAL</b>	<b>96</b>	<b>47,296</b>		<b>107</b>	<b>52,916</b>		<b>1</b>	<b>-1,351</b>		<b>108</b>	<b>51,565</b>	

Note: Excludes Balance Rescission and/or Supplemental Appropriations.



F. Crosswalk of 2015 Availability

Crosswalk of 2015 Availability  
Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

Program Activity	2015 Initial Availability			Reprogramming/Transfers			Carryover		Recoveries/ Refunds	2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Estim. FTE	Amount	Amount	Amount		Direct Pos.	Estim FTE	Amount
Justice Prisoner and Alien Transportation System	123	96	50,643	0	0	0	0	20,958	321	123	96	71,922
Grand Total, FTE	123	96	50,643	0	0	0	0	20,958	321	123	96	71,922

**Carryover:**  
Includes the mandatory CORPUS balance and carryover reimbursable obligation author

**Recoveries/Refunds:**  
JPATS is a revolving fund and prior year recoveries are reapportioned and used in current year operation

Total of 2015 Estimate Source: SF133 dated 9/30/15 line 1910



**Crosswalk of 2016 Availability**  
Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

Program Activity	2016 Initial Availability			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	2016 Availability		
	Direct Pos.	Estim. FTE	Amount	Direct Pos.	Estim. FTE	Amount			Direct Pos.	Estim. FTE	Amount
Justice Prisoner and Alien Transportation System	123	107	57,309	0	0	0	24,626	568	123	107	82,503
Grand Total, FTE		107			0					107	

Carryover:  
Includes the mandatory CORPUS balance and carryover reimbursable obligation authority.

Recoveries/Refunds:  
JPATS is a revolving fund and prior year recoveries are reappportioned and used in current year operations.  
Total of 2016 Estimate Source: SF-132 Signed on 12-31-2015.



H. Summary of Reimbursable Resources

**Summary of Reimbursable Resources**  
Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

Collections by Source	2015 Operating Level			2016 Operating Level			2017 Operating Level			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
United States Marshals Service	123	96	29,727	123	107	37,406	123	108	33,920	0	1	-3,486
Bureau of Prisons	0	0	19,058	0	0	18,565	0	0	19,291	0	0	726
State, Local, Dept of Defense, and Misc.			482									
Total Collections by Source	123	96	49,267	123	107	55,971	123	108	53,211	0	1	-2,760

Obligations by Program Activity	2015 Operating Level			2016 Operating Level			2017 Operating Level			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
Justice Prisoner and Alien Transportation System	123	96	47,298	123	107	52,916	123	108	51,565	0	1	-1,351
Budgetary Resources	123	96	47,298	123	107	52,916	123	108	51,565	0	1	-1,351

The amounts for collections are inclusive of expenses for depreciation which are collected from the customer.  
The operating authority does not include amounts for depreciation as it does not require budgetary authority.



I. Detail of Permanent Positions by Category

Detail of Permanent Positions by Category  
Justice Prisoner and Alien Transportation System  
Revolving Fund

Category	2015 Operating Level		2016 Operating Level		2017 Operating Level		
	Reimb. Pos.		Reimb. Pos.		ATBs	Changes to Operating Level	Total Reimb. Pos.
Intelligence Series (132)	0		0		0	2	2
Clerical and Office Services (300-399)	19		18		0	-1	17
Accounting and Budget (500-599)	10		11		0	0	11
Paramedical/Nurses (610 & 640)	8		7		0	4	11
Attorneys (605)	1		1		0	0	1
Business & Industry (1100-1199)	5		5		0	0	5
Miscellaneous Inspectors Series (1801)	24		24		0	0	24
Criminal Investigative Series (1811)	4		4		0	0	4
Quality Assurance, Inspection & Grading Group (1900-1999)	2		2		0	1	3
Transportation Group (2100-2199)	45		44		0	-6	38
Information Technology Mgmt. (2210)	7		7		0	7	14
Total	123		123		0	0	123



K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
Justice Prisoner and Alien Transportation System  
Revolving Fund  
(Dollars in Thousands)

Object Class	2015 Operating		2016 Availability		2017 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
11.1 Full-Time Permanent	96	8,412	107	9,542	108	9,828	1	186
11.3 - Other than full-time permanent	0	181	0	0	0	855	0	-82
11.5 Other Personnel Compensation	0	789	0	937	0	663	0	-1
<i>Overtime</i>	0	569	0	664	0	192	0	-81
<i>Other Compensation</i>	0	221	0	273	0	3,292	0	669
11.8 Special Personal Services Payments	0	3,122	0	2,603	0	13,875	1	793
<b>Total</b>	<b>96</b>	<b>12,504</b>	<b>107</b>	<b>13,182</b>	<b>108</b>	<b>13,875</b>	<b>1</b>	<b>793</b>
<b>Other Object Classes</b>								
12.0 Personnel Benefits		3,416		3,309		3,391		82
13.0 - Benefits for former personnel		25		1,127		1,169		42
21.0 Travel and Transportation of Persons		789		0		0		0
22.0 Transportation of Things		10		0		0		0
23.1 - Rental payments to GSA		835		872		884		12
23.2 Rental Payments to Others		19		478		539		61
23.3 Communications, Utilities, and Miscellaneous Charges		5,850		365		443		78
25.1 Advisory and Assistance Services		337		11,089		9,108		-1,961
25.2 Other Services from Non-Federal Sources		552		396		391		-66
25.3 Other Goods and Services from Federal Sources		366		487		281		-123
25.4 Operation and Maintenance of Facilities		231		404		8,410		1,367
25.6 - Medical care		208		7,043		12,805		-1,637
25.7 Operation and Maintenance of Equipment		11,616		14,442		168		30
26.0 Supplies and Materials		10,307		136		51,565		-1,351
31.0 Equipment		138		52,516		24,626		0
32.0 - Land and structures		62		-20,958		51,565		0
42.0 - Insurance claims and indemnities		47,296		-32,11		24,626		0
<b>Total Obligations</b>		<b>47,296</b>		<b>52,516</b>		<b>51,565</b>		<b>-1,351</b>
Subtract - Unobligated Balance, Start-of-Year		-20,958		-24,626		51,565		0
Subtract - Recoveries/Refunds		0		0		24,626		0
Add - Unobligated End-of-Year, Available		24,626		24,626		51,565		0
<b>Total Direct Requirements</b>	<b>0</b>	<b>50,843</b>	<b>0</b>	<b>52,516</b>	<b>0</b>	<b>51,565</b>	<b>0</b>	<b>-1,351</b>
Reimbursable FTE	96		107		108		1	
Full-Time Permanent								



M. Summary of Aircraft

**Schedule of Aircraft**  
Justice Prisoner and Alien Transportation System  
Revolving Fund

Type of Aircraft (Passenger Capacity)	End-of-Year Inventory	2015			2016			2017			
		Acquired	Disposed	End-of Year	Acquired	Disposed	End-of Year	Acquired	Average Cost (\$000)	Disposed	End-of Year
Direct Purchase:											
Jet Engine (8-10)	2.0	0.0	2.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (120-140)	2.0	0.0	0.0	2.0	0.0	0.0	2.0	0.0	0.0	0.0	2.0
Turbo-Prop (50-60)	1.0	0.0	0.0	1.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0
Turbo-Prop (10-20)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal, Purchased	5.0	0.0	2.0	3.0	0.0	0.0	3.0	0.0	0.0	0.0	3.0
Leased:											
Turbo-Prop (11)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (120-140)	1.0	0.0	0.0	1.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0
Jet Engine (10)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal, Leased	1.0	0.0	0.0	1.0	0.0	0.0	1.0	0.0	0.0	0.0	1.0
Seized or No Cost											
Excess:											
Single-Engine (3)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Twin-Engine (6)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Turbo Prop (50)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (120)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (75)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (8)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jet Engine (10)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Subtotal, Seized	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Aircraft	6.0	0.0	2.0	4.0	0.0	0.0	4.0	0.0	0.0	0.0	4.0



**United States Marshals Service  
FY 2017 Performance Budget  
President's Budget Submission**

**Federal Prisoner Detention Appropriation**



**February 2016**



## Table of Contents

<b>I. Overview .....</b>	<b>4</b>
<b>II. Summary of Program Changes .....</b>	<b>14</b>
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	<b>15</b>
<b>IV. Program Activity Justification .....</b>	<b>16</b>
<b>A. Detention Services.....</b>	<b>16</b>
1. Program Description .....	16
2. Performance Resources Table .....	20
3. Performance, Resources, and Strategies.....	24
<b>V. Program Increases by Item.....</b>	<b>29</b>
<b>A. Housing of USMS Detainees .....</b>	<b>29</b>
<b>VII. EXHIBITS</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal/Objective	
E. Justification for Technical and Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	
L. Status of Congressionally Requested Studies, Reports, and Evaluations	



## I. Overview

### A. Introduction

The United States Marshals Service (USMS) Federal Prisoner Detention (FPD) Appropriation provides housing, transportation, and care for federal detainees housed in non-federal detention facilities. For FY 2017, the FPD Appropriation requests a total of 19 positions, 19 full-time equivalent (FTE), and \$1,504,009,000. The requested increase includes adjustments-to-base of \$47,647,000 and a program increase of \$1,948,000. In addition, a cancellation of \$24,000,000 from prior year balances is proposed.

<b>Federal Prisoner Detention</b>			
	Pos	FTE	Amt (\$000)
FY 2015 Enacted with Rescissions	17	12	307,307
FY 2016 Enacted with Rescissions	19	19	1,258,440
FY 2017 Request	19	19	1,504,009

The USMS is not requesting any enhancements for information technology (IT), although the request includes seven positions, seven FTE, and \$8,903,000 for IT activities as reported in the Agency IT Portfolio Summary (formerly Exhibit 53A). It should be noted that currently, the FPD account has one IT position. The six positions reported in the Agency IT Portfolio Summary reflect all USMS FTE that support a detention function. The IT resources provide for support staff, hardware, applications providing access to detention facility information, facility contract information, electronic Intergovernmental Agreement (eIGA), prisoner movement, and an e-Gov site providing secure role-based access to detention information.

Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>

### B. Background

From 1994 through 2011, the average daily population (ADP) increased from 18,282 to 61,719. Since FY 2011, the USMS has experienced an unprecedented decrease in the federal detainee population to 51,840 in FY 2015. The USMS attributes this decline to the slowing growth rate of arrests and bookings coupled with prisoners spending less time in detention. If the current projections of bookings and time-in-detention remain consistent, the USMS anticipates an ADP of 55,338 for FY 2017.

Projecting the ADP for the detention account is a challenging exercise due to the complexity and dynamic nature of the many variables that go into calculating projections. For example, detention



projections are calculated using reliable trend analyses comprised of several leading indicators such as: types of bookings; time in detention; law enforcement and attorney staffing levels; and other criteria which are factored into the projection with a significant degree of accuracy. However, there are a number of other influences such as special law enforcement and prosecutorial initiatives which are frequently established outside of the budget process that can have substantial influence on detention needs. For this reason, population projections are in a fairly constant state of flux and require periodic adjustments based upon these variables.

Past projections anticipated an impact to detention would occur from increased law enforcement hiring at the Department of Justice (DOJ) and the Department of Homeland Security (DHS) as a result of the FY 2014 enacted budget. This impact has not materialized and that may be the result of hiring and training lags.

Furthermore, DHS has more than doubled the Border Patrol's size and acquired drones, sensors and other technology at the border to enhance security. DHS believes that these actions have succeeded in shrinking illegal immigration, while some independent researchers maintain that factors other than security account for much of the reduced flow of illegal immigrants. These factors include demographic changes in Mexico, improvements in its economy and Mexico's crackdown on Central American migrants headed to the United States. Regardless, research suggests that fewer illegal immigrants are crossing the border. While fewer persons are attempting to illegally enter the United States, an increasing proportion of those apprehended are referred for criminal prosecution.

These are prime examples of the varied factors that cannot be used in a forecasting model, but can impact detention when realized. Despite the complexities of projecting the detention population, building the request based on current patterns and trends keeps the budget in alignment with detention requirements.

### **C. Program Costs**

The costs associated with the care and custody of federal detainees in private, state, and local facilities are funded from the FPD appropriation.

Law enforcement and prosecutorial priorities directly impact the USMS detention resource needs. Linking law enforcement initiatives with detention funding requests is the key to providing the Congress with accurate information for budget forecasting, cost containment and effective results.

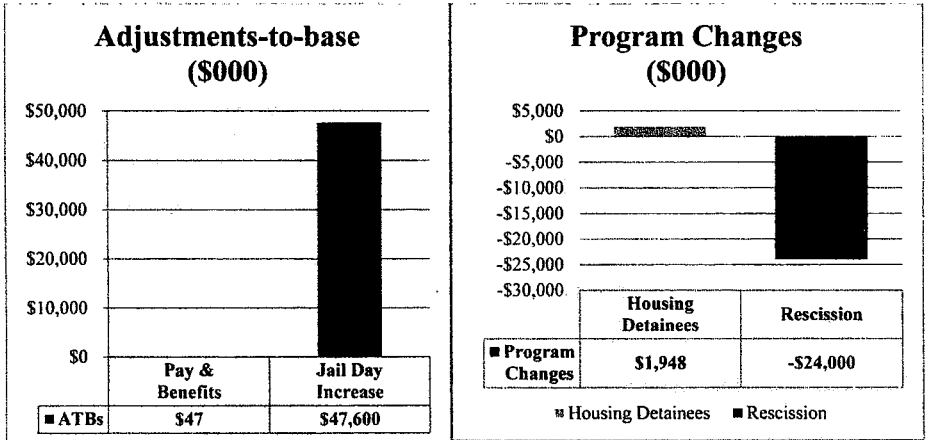
The USMS must ensure sufficient resources are available to house and care for the corresponding detainees. This objective is made even more challenging given the times when detention space availability is limited. While fluctuations in the ADP are largely outside of USMS' direct control, the USMS continues to coordinate the acquisition of sufficient detention space in the most cost efficient manner.

The USMS continues to refine and improve detention operations to be more cost-effective and to be more responsive to the needs of the fluctuating detention environment. The USMS continues to aggressively seek efficiencies, work with federal, state, and local partners regarding bed space, and reduce contract costs. These measures also help contain detention expenditures.



**D. FY 2017 Request**

The FPD account is defined by one program activity: Detention Services. The FPD request includes \$1,504,009,000 in appropriated resources for this activity. This amount includes \$1,340,035,000 for housing and subsistence of detainees. Program costs for health care are \$71,830,000, medical guards are \$23,588,000, and transportation costs are \$65,792,000. The requested amount also includes \$2,764,000 for incidental costs associated with prisoner housing and transportation such as prisoner meals while in transit, prisoner clothing, and parking for government vehicles.



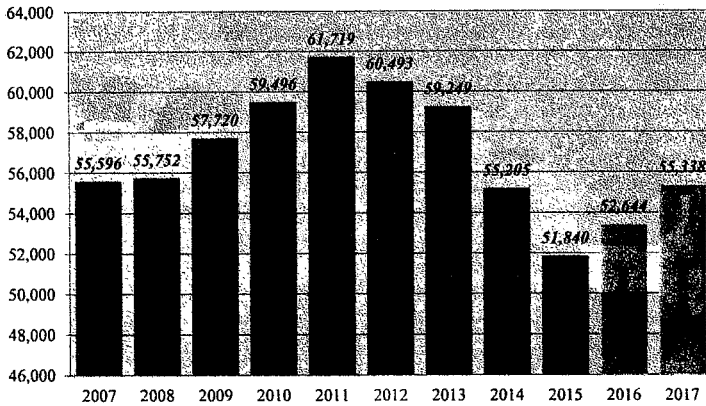
**Adjustments-to-base:** FPD's base adjustments total \$47,647,000. This amount reflects an increase of \$47,000 for pay and benefits adjustments and \$47,600,000 for other inflationary cost increases associated with increases in detention-related services. Also, a technical adjustment for restoration of prior year balances of \$195,974,000 is included to ensure that sufficient base resources are maintained.

**Program Increase:** FPD's program increases reflect \$1,948,000 for the increased costs associated with housing new federal detainees.

**Rescission of Balances:** Due to the lower than projected detention population in FY 2015, the USMS request includes a cancellation of \$24,000,000 from prior year balances.



***United States Marshals Service, Average Daily Detention Population, Fiscal Year 2007 through 2017 (projected)***



**ADP Projections:** Based on estimated bookings and time-in-detention, the ADP is currently projected to be 55,338 for FY 2017. The ADP is primarily dependent upon the number of persons arrested by the federal law enforcement agencies coupled with the length of time defendants are detained pending adjudication, release, or subsequent transfer to the DOJ's Bureau of Prisons (BOP) following conviction and sentencing.

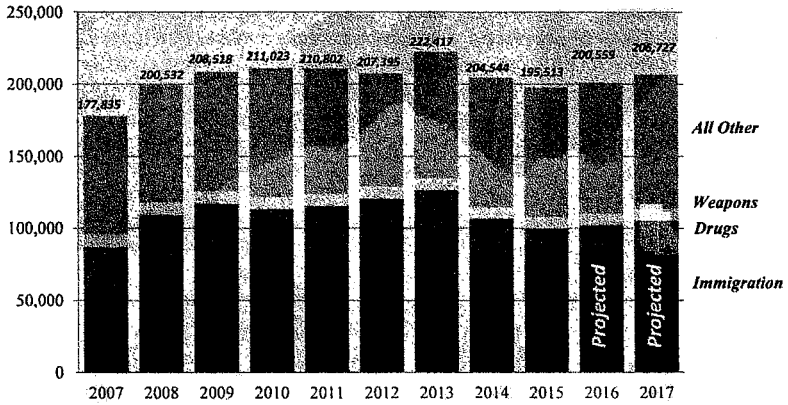
Recently, the USMS has observed a substantial decline in the number of prisoners received for prosecution. Additionally, continuing initiatives such as fast-tracking the prosecution of selected offenses, expediting the designation and transfer of sentenced prisoners to BOP correctional institutions, and utilizing detention alternatives have proven successful at reducing detention time, particularly during the post-sentencing period. These factors combined have resulted in a substantial decrease in the detention population from peak levels.

While the USMS currently projects that the detention population will increase from its current level in FY 2015, the estimated growth rate is below historic levels and the projected detention population for FY 2017 (55,338) is around 10 percent below the peak population attained during FY 2011 (61,719).

Through FY 2017, the USMS projects that the Southwest Border (SWB) area will continue to be a focal point of federal law enforcement. During FY 2015, more than half of all prisoners received by the USMS were received in the five judicial districts comprising the SWB (Arizona, Southern California, New Mexico, Southern Texas, and Western Texas). The USMS projects an increase of 11,000 prisoners received between FY 2015 and FY 2017, and that about two-thirds of those prisoners will be from the SWB districts and primarily charged with immigration offenses. Though lower than the peak level observed during FY 2013, the projected increase generally reflects continued increases in federal law enforcement resources in these districts and federal law enforcement's emphasis on protecting and securing the SWB.



**United States Marshals Service, Prisoners Received, by Offense,  
Fiscal Year 2007 through 2017 (projected)**



**United States Marshals Service, Average Daily Detention Population and  
Prisoners Received, by Offense,  
Fiscal Year 2007 through 2017 (projected)**

	ADP	Total	Immigration	Drugs	Weapons	Other
2007	55,596	177,835	54,843	31,987	9,028	81,977
2008	55,752	200,532	78,404	30,713	8,746	82,669
2009	57,720	208,518	85,234	31,702	8,736	82,846
2010	59,496	211,023	82,977	30,248	8,339	89,459
2011	61,719	210,802	84,343	31,089	8,087	87,283
2012	60,493	207,395	91,524	28,940	8,587	78,344
2013	59,249	222,417	98,025	28,416	8,295	87,681
2014	55,205	204,544	82,175	24,537	7,557	90,275
2015	51,840	195,513	71,386	24,938	8,229	90,960
2016	52,644	200,559	77,381	24,988	8,080	90,110
2017	55,338	206,727	80,036	25,136	8,079	93,476

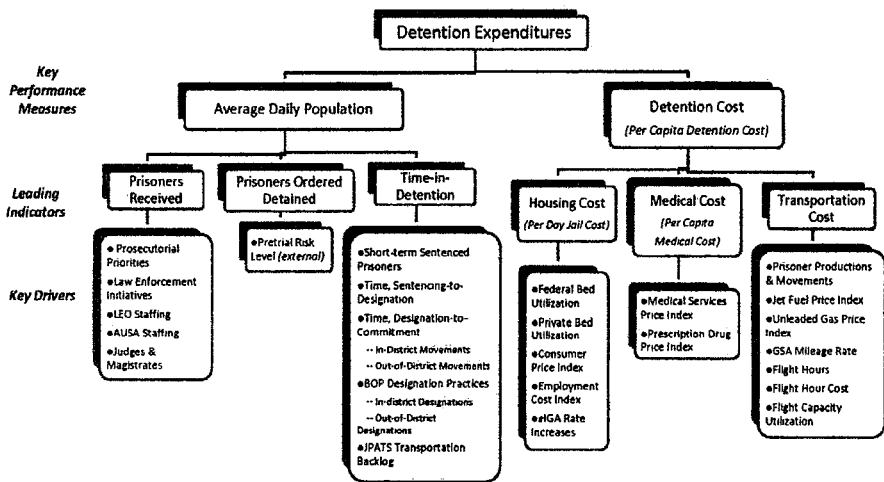


### Detention Population Forecasting Model

A Detention Population Forecasting Model is used to take a statistical approach for predicting detention needs using factors such as population, demographic trends, number and type of criminal cases processed, average processing time per type of case, and authorized/requested positions of federal law enforcement, U.S. Attorneys, U.S. District Court judges, and immigration judges. These factors allow for the development of impact scenarios that address proposed legislation, known DOJ law enforcement initiatives, and current activities. The projections are based on past performance and behavior of the players involved. Any shift in behavior may alter the outcome.

As shown in the following chart, the primary drivers of detention expenditures are the number of prisoners booked by the USMS and the length of time those prisoners are held in detention. However, both of these factors are directly influenced by the activities and decisions of federal law enforcement, U.S. Attorneys, and the federal judiciary. Accordingly, the USMS regularly monitors – and tries to anticipate – changes in federal law enforcement priorities and the number of on-board staff.

### Primary Drivers of Detention Expenditures



Historically, implementation of zero-tolerance immigration enforcement policies along the SWB has had the most significant impact on the detention population and USMS workload. Since implementation of these policies during 2005, the number of prisoners received for immigration



offenses increased to more than 71,000 in FY 2015 compared to 39,973 in FY 2005. At the height of these programs, immigration offenders comprised almost half of all persons received by the USMS. While the USMS observed a decrease in the number of persons received for immigration offenses during FY 2015, the USMS estimates that the number of immigration offenders received will increase due to immigration enforcement-related activity.

The detention population projection for FY 2017 is a particularly challenging assessment for the USMS. During prior years, the long-term trend has reflected steady annual increases in the number of prisoners received. This trend translates directly to increases in the overall detention population. However, beginning in FY 2014, the number of prisoners received for prosecution significantly decreased. This decrease may be the result of factors such as reduced funding for federal law enforcement agencies and changes in prosecutorial practices and priorities stemming from the Attorney General's *Smart on Crime* initiative. Consequently, it is difficult to determine whether the decreasing trend is a permanent change that will be sustained into the future, or if it is temporary whereby after a period of stagnation prosecutorial activity will substantially increase.

The FPD appropriation operates within a structure that offers little opportunity for economies of scale and each additional prisoner received translates into a direct expenditure. For example, an additional three percent increase in the number of prisoners received for drug offenses (or 754 additional prisoners) would result in a \$10,955,058 increase in detention expenditures. For each of the offense categories drugs, weapons, and immigration, a three to 10 percent increase in prisoners received results in a level that is within historical boundaries. The following chart illustrates the **potential impact** of unplanned prisoners received by offense:

***Impact of Increased Number of Prisoners Received Beyond  
the Fiscal Year 2017 Population Projections***

<b><i>Prisoner Bookings</i></b>			<b>Total ADP</b>	<b>Projected Cost Increase</b>
<b>Total</b>	<b>Increase Above Current Projection</b>			
<b><i>Prisoners Received for Drug Offenses</i></b>				
Baseline	25,136	---	55,338	---
+3%	25,890	754	55,677	\$10,955,058
+5%	26,393	1,257	55,903	\$18,258,431
+10%	28,906	2,514	56,469	\$36,516,862
<b><i>Prisoners Received for Weapons Offenses</i></b>				
Baseline	8,079	---	55,338	---
+3%	8,321	242	55,453	\$3,733,777
+5%	8,483	404	55,530	\$6,222,962
+10%	8,887	808	55,723	\$12,445,923
<b><i>Prisoners Received for Immigration Offenses</i></b>				
Baseline.	80,036	---	55,338	---
+3%	82,437	2,401	55,705	\$11,848,049
+5%	84,038	4,002	55,949	\$19,746,748
+10%	92,041	8,004	56,561	\$39,493,497



**Capital Improvement Program (CIP):** The CIP is a comprehensive program used to address detention space needs in critical areas. The program offers various contractual vehicles to provide federal funding to state and local authorities for the expansion, renovation, and construction of jails or the acquisition of equipment, supplies, or materials in exchange for detention beds. The program consists of two parts: the Cooperative Agreement Program (CAP) and Non-Refundable Service Charge Contract (NSCC).

CAP provides federal resources to select state and local governments to renovate, construct, and equip detention facilities in return for guaranteed bed space for a fixed period of time for federal detainees in or near federal court cities. The NSCC allows the USMS to directly contract with state and local governments providing up-front funding for renovation or construction of jails to house federal detainees in exchange for guaranteed bed space at a fixed rate. The program is subject to the guidelines set by the Federal Acquisition Regulation (FAR) and allows the USMS to meet federal detention housing needs by directly investing resources into participating state and local facilities.

For example, during FY 2010, in exchange for a \$20,000,000 CIP award, the then Office of the Detention Trustee (OFDT) entered into an IGA with the State of Maryland (MD) to use up to 500 beds at the Maryland Correctional Adjustment Center (now Chesapeake Detention Facility) in Baltimore, MD. The facility is in close proximity to the federal district court in Baltimore, MD and provided for dedicated and guaranteed detention space for prisoners held in USMS custody in the District of Maryland. Given that the USMS has full utilization of the facility at a fixed operating cost, the effective per diem rate was reduced from \$198 to approximately \$131. Over a 20-year period, this CIP award will result in an estimated \$40,000,000-cost avoidance for basic prisoner housing while providing dedicated detention space in a metropolitan area without requiring construction.

#### **Full Program Cost**

<b>Full Program Cost by Program Activity (In \$000)</b>		
<b>Program Activity</b>	<b>Dollars in Thousands</b>	
<b>Detention Services</b>	Housing & Subsistence	\$1,340,035
	Health Care Services	71,830
	Medical Guards	23,588
	Transportation	65,792
	Other	2,764
<b>Total Request:</b>		<b>\$1,504,009</b>

Full program costs include resources for housing, care, and transportation of detainees as well as activities that help improve the detention infrastructure and contain costs. Investment in the detention infrastructure will enable the USMS to effectively drive efficiencies and manage the detention appropriation.

The USMS continues to implement efficiencies through computer programs including: eDesignate, which reduces post-sentencing time in detention; eIGA, which standardizes the pricing strategy for non-federal detention space, controlling costs and providing greater certainty in rates to be paid; and the Quality Assurance Program, which ensures that private facilities meet DOJ requirements for safe, secure and humane confinement. Fundamental to these programs is shared data and the integration of



information technology systems such as the USMS Justice Detainee Information System (JDIS) and the JPATS Management Information System (JMIS).

#### **E. Strategic Goals**

In the DOJ's Strategic Plan under Strategic Goal III: "Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal, and International Levels," USMS' responsibility for detention is in Strategic Objective 3.3: Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates. The USMS supports this mission objective by accomplishing the following performance goals:

- Meet the Nation's detention requirements in the most economical manner
- Ensure efficient use of detention space and minimize price increases
- Ensure adequate medical services are provided in the most economical manner
- Ensure safe, secure, humane confinement
- Ensure detention facilities meet established standards for confinement

Performance goals, workload projections, and related resources are identified in the Performance and Resource Table.

#### **F. Environmental Accountability**

Detention services contracts have been designed to increase the purchase and use of renewable, environmentally friendly bio-based products. The USDA BioPreferred Program has identified more than 15,000 bio-based products commercially available across approximately 200 categories. Each contractor submits an annual report that reflects the percentage of BioPreferred products used within the detention facility. These reports are used to determine if contractors are complying with the bio-based product utilization standards required in the contract.

When the USMS contracts for new detention space, the procurement is conducted in compliance with the National Environmental Policy Act (NEPA). NEPA requires federal agencies to examine the impact of agency actions on the environment. The examination determines if there are any endangered species that will be affected, potential hazardous toxin emissions that could harm water supply, traffic patterns, etc., leading to the development of mitigation plans in conjunction with private service providers.

Environmental documentation submitted is evaluated in the acquisition process and verified for accuracy in accordance with the solicitations' environmental instructions. Greater consideration is given to the proposal that has a lesser or reduced negative effect on the human environment when compared with competing proposals.

#### **G. Challenges**

The USMS continues to analyze cost savings measures for economies of scale; be transparent in communications with both the Office of Management and Budget (OMB) and the Department; and pursue resources to accomplish the USMS' core mission, operate programs, improve detention



management, ensure officer and detainee safety, and provide the highest possible security for the federal judicial process.

**Objective 3.3 Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates:**

The USMS detention resources are directly impacted by law enforcement and prosecutorial priorities and larger legislative reforms such as Immigration Reform, Southwest Border initiatives, and changes to sentencing guidelines. To meet these challenges, the USMS continues to reform business practices to optimize national detention operations. This will include robust interagency and non-governmental collaboration efforts to develop innovative solutions to effectively forecast and manage prisoner processing, housing, transportation, and medical. In streamlining detention operations and provide for monitoring and performance based reporting, the USMS will need to develop a comprehensive IT environment that will modernize technology infrastructure, allow for enhanced data sharing and facilitate greater efficiencies across the agency.



## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>Housing of USMS Detainees</b>	Resources to fund inflationary detention costs and the additional bed space needed for an increased detention population.	0	0	\$1,948	29



### III. Appropriations Language and Analysis of Appropriations Language

#### Appropriations Language

##### FEDERAL PRISONER DETENTION

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses related to United States prisoners in the custody of the United States Marshals Service as authorized by section 4013 of title 18, United States Code, [\$1,454,414,000]~~\$1,504,009,000~~, to remain available until expended: *Provided*, That not to exceed \$20,000,000 shall be considered “funds appropriated for State and local law enforcement assistance” pursuant to section 4013(b) of title 18, United States Code: *Provided further*, That the United States Marshals Service shall be responsible for managing the Justice Prisoner and Alien Transportation System: *Provided further*, That any unobligated balances available from funds appropriated under the heading “General Administration, Detention Trustee” shall be transferred to and merged with the appropriation under this heading.

##### (CANCELLATION)

*Of the unobligated balances from prior year appropriations available under this heading, \$24,000,000, are hereby permanently cancelled: Provided, That no amounts may be cancelled from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. (Department of Justice Appropriations Act, 2016.)*

#### Analysis of Appropriations Language

No substantive changes proposed.



#### IV. Program Activity Justification

##### A. Detention Services

<b>Detention Services</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2015 Enacted	17	12	\$495,307
2016 Enacted	19	19	\$1,454,414
2016 Balance Rescission			-\$195,974
2016 Enacted (with Balance Rescission)	19	19	\$1,258,440
Adjustments to Base and Technical Adjustments	0	0	\$243,621
2017 Current Services	19	19	\$1,502,061
2017 Program Increases	0	0	\$1,948
2017 Request	19	19	\$1,504,009
<b>Total Change 2016-2017</b>			<b>\$49,595</b>

<b>Detention Services – Information Technology Breakout</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount (\$000)</b>
2015 Enacted	1	1	\$13,223
2016 Enacted	1	1	\$11,903
2017 Current Services	1	1	\$8,903
2017 Request	1	1	\$8,903
<b>Total Change 2016-2017</b>			<b>-\$3,000</b>

##### 1. Program Description

###### *Detention Services*

Detention resources provide the housing, transportation, medical care, and medical guard services for federal detainees remanded to USMS custody. The FPD resources are expended from the time a prisoner is brought into the USMS custody through termination of the criminal proceeding and/or commitment to BOP.

The federal government relies on various methods to house detainees. Detention bed space for federal detainees is acquired “as effectively and efficiently as possible” through: 1) federal detention facilities, where the government pays for construction and subsequent operation of the facility through the BOP; 2) Intergovernmental Agreements with state and local jurisdictions who have excess prison/jail bed capacity and receive a daily rate for the use of a bed; 3) private jail facilities where a daily rate is paid per bed; and, 4) Capital Improvement Program, which includes the CAP and the NSCC, where capital investment funding is provided to state and local governments for guaranteed detention bed space in exchange for a daily rate negotiated through an IGA.



In certain high demand areas, e.g., the Southwest Border, DOJ has not been able to rely as much on IGAs and federal facilities to meet housing requirements. Accordingly, in 2016, it is expected that the capacity of the federal facilities will accommodate only 19% of the USMS detention population. By contrast, during FY 2000, federal facilities housed approximately 30% of the USMS detention population. As space in federal facilities becomes unavailable, DOJ has increasingly had to rely on the private sector.

### ***Detention Management Services Automation***

The USMS will continue to identify process automation opportunities, design support solutions, and invest in IT infrastructure to facilitate improved efficiencies through process automation and when appropriate the integration of existing detention systems and services. The key detention automation programs that continue to drive mission efficiencies include the cross-agency initiatives of the Detention Services Network (DSNet).

**Detention Services Network:** The DSNet is a multifaceted, full-service internet site for the management of detention services and prisoner processing. The USMS' Prisoner Operations Division (POD) administers the DSNet via programs that provide for the housing, transportation, and care of federal prisoners throughout all 50 states and its U.S. territories. The web-based DSNet system optimizes national detention operations with well-established business practices that achieve cost effective, safe, secure, and humane confinement and transportation of prisoners.

The DSNet system automates many of the processes required to manage prisoners while storing case information related to the "Arrest to Commitment" lifecycle. DSNet is the primary tool utilized by POD to manage detention services and supports the following specific functions:

- Automation of the "sentence to commitment" process for federal detainees
- Management and procurement of private detention services via state and local intergovernmental agreements
- Inspection and procurement of "bed space" for detention services
- Approval of prisoner medical requests

The detention services offerings continue to be developed and implemented as detention needs arise. The following modules currently exist on the DSNet site:

**eDesignate:** eDesignate is a secure, electronic, web-based system that automates the Sentence to Commitment (S2C) process by transferring data and documents electronically. eDesignate includes eMove, a transportation module that allows the USMS to submit movement requests electronically.

Since 2008, eDesignate has been fully operational in all 94 U.S. Federal Court districts. eDesignate is the enterprise technology solution used by the U.S. Courts, USMS, and BOP for the designation process and JPATS movement requests for federal prisoners. eDesignate eliminates the paper process and creates a faster, more transparent and effective workflow across agencies. Specifically, automated detainee data sharing for the purpose of designation and movement eliminates redundant efforts, saves time, reduces errors, provides better visibility of the process, enables better problem resolution across agencies and provides the information necessary to manage more effectively.



eDesignate enables the BOP to complete sentence computations and designations and returns dispositions to the USMS. Based on the length of sentence, the USMS either maintains custody of the detainee until the sentence is served, in the case of a short term sentence, or prepares the prisoner for movement to the commitment location. By delivering the necessary documents and data in one complete package to the BOP via a secure system, eDesignate enables all agencies to monitor and provide relevant information to shorten the post-sentence process, thereby saving detention costs.

Finally, eDesignate monitors performance objectives and metrics within and across agencies as well as gives managers the ability to watch and react to operational issues and trends. Managing and monitoring the S2C process via eDesignate has reduced the average number of days detainees are in the S2C pipeline and ultimately resulted in a cost avoidance of \$25,000,000 in detention housing per year since FY 2008.

**eMove:** In 2008, the USMS in cooperation with JPATS, implemented in all 94 USMS districts, the eDesignate Movement Request (eMove). eMove provides a seamless transition from eDesignate to complete the full automation of the sentence to commitment process. It gives the USMS the ability to submit and monitor web-based movement requests to JPATS and streamlines the workflow among participating agencies by fully automating the federal detainee transportation request process, thereby reducing the time from designation to commitment.

In February 2012, an enhancement to the eMove Transportation Module was released nationwide. This enhancement enables eMove to assist districts in scheduling and managing all in-district Judgment and Commitment (J&C) detainee moves. This module allows the USMS to submit routine out-of-district movement requests, such as Federal Writs, Attorney Special Requests, Warrant of Removals, etc., to JPATS. eMove enables districts to submit and manage all prisoner movement information and data seamlessly in one central system.

The USMS now has the ability to centrally manage in-district moves, which will allow the USMS to develop performance objectives and measure the operational effectiveness of prisoner movement. With the ability to monitor, the USMS will be able to determine the movements that will reduce time-in-detention, thus reducing detention costs.

**ePMR:** The electronic Prisoner Medical Request (ePMR) system serves to provide a workflow for medical designations. ePMR was implemented in all 94 USMS districts in 2010. The system streamlines and automates the approval process for requests for detainee medical services from USMS district offices to the Office of Interagency Medical Services (OIMS). ePMR eliminated the paper-based request and approval system previously in place, and provided the ability to automatically capture relevant detainee data from other agency systems.

ePMR works seamlessly with existing systems and reduces the work associated with data entry, storage, and reduces costs associated with paper/printer usage. The electronic solution presents relevant data and documents in one complete package to OIMS at USMS headquarters at a single point in time. The system also provides feedback mechanisms across USMS offices for faster case resolution. Additionally, ePMR not only provides users within districts with a level of collaboration never before realized, but also enables managers to adjust workloads internally, monitor performance and audit status both internally and externally.



**Electronic Intergovernmental Agreement (eIGA):** The eIGA system was successfully deployed in 2008 to manage the interaction between facility providers offering detention services and a federal agency. eIGA automates the application process by enabling a facility to provide essential information via a secure, web-based system and then provides the government with a reliable and justifiable structure for negotiation. The system streamlines the former paper-based process, tracks the negotiation between detention provider and the government, and provides audit and reporting tools.

**Facility Review Management System (FRMS):** The FRMS is a web-based application developed to facilitate, standardize, record, and report the results of QAR performed on private facility contract performance. The system documents and produces a comprehensive QAR report that provides consolidated facility information and historic data. The information maintained in FRMS ensures the adequacy and sufficiency of services provided in non-federal detention facilities that house federal detainees. In 2008, FRMS was chosen to receive the Attorney General's Award for Information Technology Excellence based on its innovative concept, successful implementation and continued program success.

**Detention Facility Review (DFR):** The DFR application module automates the review of non-federal facility reviews. The application allows easy, standardized recording of review results, which then can be summarized into reports for USMS management's use.



2. Performance Resources Table

PERFORMANCE AND RESOURCES TABLE												
Decision Unit: Detention Services												
Workload/Resources		Target			Actual			Projected			Changes	Requested (Total)
		FY 2015			FY 2015			FY 2016			Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request
Workload: Total Average Daily Population:												
State & Local Gov't (IGA) Facilities		57,484			51,840			52,644			2,694	55,338
Private Facilities		35,208			31,622			32,867			1,237	34,044
Subtotal Non-federal Facilities		11,319			10,248			10,014			1,169	11,183
Federal (BOP) Facilities		46,527			41,870			42,881			2,406	45,287
Non-Paid Beds		10,745			9,734			9,438			310	9,668
Total Costs and FTE		272			236			225			(42)	183
(Reimbursable FTEs are included, reimbursable costs are bracketed and not included in the total)		FTE	\$000		FTE	\$000		FTE	\$000		FTE	\$000
		17	\$495,307		12	\$1,452,970		19	\$1,454,414		0	\$49,595
			[\$650]			[\$0]			[\$650]			[\$0]
Type/ Strategic Obj.		FY 2015			FY 2015			FY 2016			Current Services Adjustments and FY 2017 Program Changes	FY 2017 Request
DOJ SO 3.3		FTE	\$000		FTE	\$000		FTE	\$000		FTE	\$000
Program Activity		17	\$495,307		12	\$1,452,970		19	\$1,454,414		0	\$49,595
			[\$650]			[\$0]			[\$650]			[\$0]
Efficiency		\$77.37			\$79.24			\$80.67			\$1.55	
Performance		\$2,196			\$2,168			\$2,020			\$0.87	
Performance		15			15			18			0	
OUTCOME		\$84.49			\$85.59			\$86.46			\$1.75	
OUTCOME		15 of 15			15 of 15			18 of 18			0	



# PERFORMANCE MEASURE TABLE

Decision Unit: Detention Services													
Strategic Objective	Performance Report and Performance Plan Targets												
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017				
3.3	Efficiency Measure	Per Day Jail costs (Non-Federal)	Actual	Actual	Actual	Actual	Target	Actual	Target				
			\$72.88	\$74.21	\$74.63	\$76.24	\$77.37	\$79.24	\$80.67				
3.3	Performance Measure	Health Care Cost Per Capita (Non-federal)	\$1,624	\$1,890	\$1,873	\$2,044	\$2,196	\$2,168	\$2,020				
3.3	Performance Measure	# Targeted Facility Reviews (Non-federal)	30	30	30	15	15	15	18				
3.3	Performance Measure: Outcome	Per Day Detention Cost (Non-federal)	\$78.59	\$78.23	\$80.33	\$82.81	\$84.49	\$85.59	\$86.46				
3.3	Performance Measure: Outcome	Targeted Non-federal Facilities Meeting Min Stds (Private)	100% 23 of 23	100% 23 of 23	100% 23 of 23	100% 15 of 15	100% 15 of 15	100% 15 of 15	100% 18 of 18				



## Data Definitions, Validation, Verification, and Limitations:

### 1. Performance Measure: Average Daily Population (ADP)

- a) **Data Definition:** Number of prisoners in the custodial jurisdiction of the USMS on an average daily basis. ADP is calculated on a per capita, per day basis.
- b) **Data Collection and Storage:** Data are maintained by the Justice Detainee Information System (JDIS) database. All prisoner statistical information is derived from JDIS.
- c) **Data Validation and Verification:** Monthly data are verified by comparing the data recorded in JDIS with billing data provided by non-federal detention service providers. Jail rate information is verified and validated against actual jail contracts.
- d) **Data Limitations:** Limited by the timely entry of prisoner data into JDIS.

### 2. Performance Measure: Per Day Jail Cost

- a) **Data Definition:** Actual average price paid per day (over a 12-month period) by the USMS to house federal prisoners in non-federal detention facilities. IGA jail cost represents the average cost paid by the USMS to house prisoners in facilities operated by state and/or local governments. Private jail costs represent the average cost paid by the USMS to house prisoners in facilities operated by non-governmental entities (such as for-profit corporations). Average price paid is weighted by actual jail day usage at individual detention facilities.
- b) **Data Collection and Storage:** Data describing the actual price charged by state, local, and private detention facility operators is maintained by the USMS in their PTS and it is updated on an as-needed, case-by-case basis when rate changes are implemented. Rate information for specific facilities is maintained by USMS headquarters staff. In conjunction with daily reports of prisoners housed, reports are compiled describing the price paid for non-federal detention space on a weekly and monthly basis. Data are reported on both district and national levels.
- c) **Data Validation and Verification:** Data reported are validated and verified against monthly reports describing district-level jail utilization and housing costs prepared by the USMS.
- d) **Data Limitations:** Maintaining prisoner movement data is a labor-intensive process. The reliability of the reported data is often compromised by time lags between the actual movement of prisoners and key-punching of those events into the PTS system. Accordingly, it is often necessary to delay reporting of official statistics several weeks to ensure that prisoner movement records have been properly updated.

### 3. Performance Measure: Health Care Cost Per Capita

- a) **Data Definition:** Cost of health care services provided to federal prisoners under the custodial jurisdiction of the USMS. Total health care costs include the costs of health services provided by medical practitioners and medical guard services. Per capita health care costs are determined by dividing total health care expenditures for the reporting period by the average daily prisoner population for that reporting period.
- b) **Data Collection and Methodology:** Data describing funds obligated for prisoner health care services are reported through reports generated from the USMS financial system.
- c) **Data Validation and Verification:** In accordance with generally accepted accounting principles, the USMS routinely monitors its financial data for new obligations and de-obligations.



d) **Data Limitation:** Data reported reflect the anticipated cost of services provided to USMS prisoners. In the event that the actual cost is different from the anticipated cost, additional funds may need to be obligated or obligated funds, de-obligated. Because of the time lag between the rendering of services and the payment of invoices, several weeks may lapse before the actual cost of health care services provided to an individual prisoner can be accurately determined.

#### 4. Performance Measure: Per Day Detention Cost

- a) **Data Definition:** Total detention costs represent the aggregation of paid jail costs and health care costs on a per capita, per day basis.
- b) **Data Collection and Storage:** See, Paid Jail Costs and Health Care Costs, above.
- c) **Data Validation and Verification:** See, Paid Jail Costs and Health Care Costs, above.
- d) **Data Limitations:** See, Paid Jail Costs and Health Care Costs, above.

#### 5. Performance Measure: Targeted Non-federal Facilities Reviews and Targeted Non-federal Facilities Meeting Minimum Standards

- a) **Data Definitions:** Targeted Non-federal Facilities: All Private Facilities receive a Quality Assurance Review (QAR), and all ICA facilities housing more than 5 USMS prisoners/year receive a Detention Facility Review (DFR). Number of Targeted Reviews Completed: Targeted Non-federal Facility Quality Assurance Reviews (QARs) completed during the fiscal year. Meeting Minimum Standards: In the QAR review process, a facility may receive one of five rating levels: Excellent: Level of performance exceeds minimum standards, deficiencies are nonexistent or minor. Good: Level of performance meets minimum standards, deficiencies are minor and are offset by outstanding elements of performance. Acceptable: Level of performance meets minimum standards, deficiencies are minor. Deficient: Level of performance indicates performance is weak, corrective action plans for internal controls are needed to maintain minimum standards. At-Risk: Level of performance does not meet minimum standards and requires immediate corrective action plans. Facilities must receive a rating above the At Risk level to be considered to be Meeting Minimum Standards. Targeted Number of Private Facilities Meeting Minimum Standards: This percentage is calculated by dividing the Private Facilities Meeting Minimum Standards by the number of these facilities scheduled for review during the fiscal year.
- b) **Data Collection and Storage:** Data describing the facility ratings and standards that are met by the individual facilities will be maintained in the FRMS system. In conjunction with the QAR reviews; state, local, and other agency reviews are maintained in the DFR system.
- c) **Data Validation and Verification:** Data reported are validated and verified against QAR reports, repository information, state, local or other agency reported data (i.e. BOP Sentry, USMS PTS).
- d) **Data Limitations:** Data reported often reflect a delay in reporting.



### 3. Performance, Resources, and Strategies

#### Program Activity: Detention Services

##### FPD Performance Goal 1

Meet the Nation's detention requirements in the most economical manner

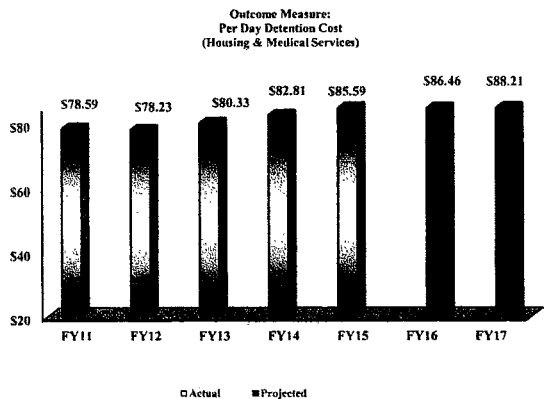
To measure success toward achieving this strategic goal, a performance goal was established to hold per day detention costs at or below inflation. This chart reflects the targeted level required to achieve that goal. The discussions below specify the mission challenges and strategies required to make the targeted level attainable. In addition, the graph depicts the specific performance level required for each contributing initiative.

##### Performance Plan and Report:

**Measure:** Per Day Detention Cost (Housing and Medical Services)

**FY 2015 Target:** \$84.49

**FY 2015 Actual:** \$85.59



##### Challenge: Adequate Detention Beds

When state and local governments require more capacity to house their own prisoners, fewer detention beds are available to accommodate federal detainees. The reduction in available state and local facilities forces an increased reliance on private facilities that are habitually higher in cost.

##### *Strategy: Maximize the use of available bed space*

One goal of DSNet is to provide a means to monitor detention bed space usage and to allow for oversight of non-federal facility contracts and services. Timely and accurate data from JDIS and other systems will be integrated into DSNet dashboards and reports to query and monitor capacity and usage. As a consolidated detention services site, the DSNet will also provide a vehicle for automated processing of IGAs, detention facility review information, and procurement data for agencies to assess, monitor, and manage detention bed space. This allows district offices increased flexibility to determine the best value to the federal government by leveraging available space, transportation, and care capabilities. The result is greater efficacy securing beds and other related services while holding detention costs down.



**FPD Performance Goal 2****Ensure efficient use of detention space and minimize price increases****Challenge: Projection of IGA Increases**

DOJ utilizes intergovernmental agreements to establish the relationship with a state or local government for the use of excess bed space at a negotiated per diem rate. During the life of the agreement, a state or local government may request rate adjustments from DOJ. Historically, it was unknown how many or at what frequency the state or local governments would request such adjustments or the magnitude of the adjustments, making it difficult to project rate increases for budgeting purposes.

***Strategy: eIGA***

eIGA was developed to provide a measure of standardization for the cost and the manner in which the IGA rates for state and local facilities are calculated. eIGA is used to establish a negotiated fixed per diem rate for each facility within the parameters of rates of similar local facilities and limits future adjustments to the per diem rate. This allows the cost of housing detainees to become more predictive as new trends and set prices are integrated to provide more comprehensive bed space requirements. eIGA continues to include more IGAs as new agreements are initiated and older agreements are renegotiated. In addition to the multiple benefits of the eIGA, this system has reporting capabilities, which can result in a more accurate and faster report.

***Strategy: Reduce prisoner processing time (via: eDesignate)***

eDesignate provides for a more efficient workflow between the U.S. Probation offices, the USMS, and the BOP during the sentence-to-commitment process by significantly reducing the workload of agency personnel involved in the administratively taxing designation process. All 94 Judicial Districts are use eDesignate. In 2010, eDesignate was expanded to include JPATS movement requests.

***Strategy: Increase use of detention alternatives***

The USMS will continue to provide funding to the federal judiciary to support alternatives to pretrial detention, such as electronic monitoring, halfway house placement, and drug testing and treatment. The budgetary savings of these alternatives to detention is substantial. The USMS provides the Administrative Office of the United States Courts (AOUSC) with \$4,000,000 annually to supplement its funding for alternatives to detention. If the defendants who were released on an alternative-to-detention program had been detained in a secure facility pending adjudication, the detention population could have been higher by as many as 2,900 prisoners per day at a cost of approximately \$67,000,000.

***Strategy: Maintain/gain economies of scale through partnered contracting***

The USMS will continue to partner with Immigration, Customs, and Enforcement (ICE) and BOP as appropriate on joint-use facilities to achieve the best cost to the Government. In this procurement process, each agency establishes a minimum level of bed space usage to achieve the best prices. By approaching the negotiating process together, this eliminates the potential for



competition between federal agencies. This methodology has worked well in the past and will continue for future negotiations as appropriate.

### Performance Plan and

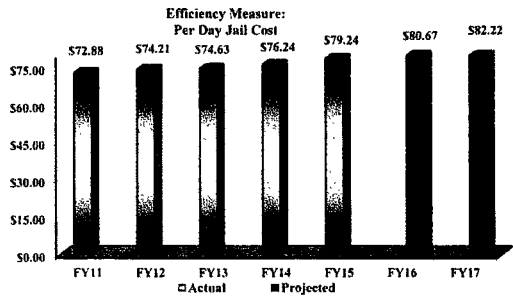
#### Report:

#### Measure:

Per Day Jail Cost

FY 2015 Target: \$77.37

FY 2015 Actual: \$79.24



### FPD Performance Goal 3

Ensure adequate medical services are provided in the most economical manner

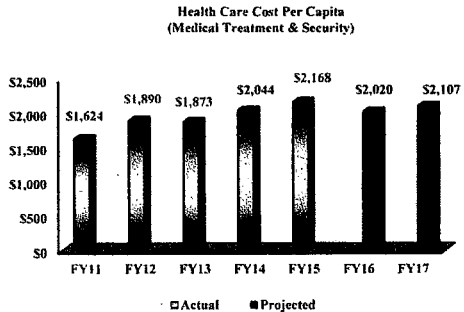
#### Challenge: Rising Medical Costs

An important facet of the conditions of confinement is ensuring the appropriate medical care for detainees at or near detention facilities. The challenge is to provide a uniform approach to these services at the best value to the Government while minimizing the cumbersome process for field operations.

#### *Strategy: National Managed Care Contract*

The USMS manages a National Managed Care Contract (NMCC) that establishes a national health care delivery system for USMS prisoners. The contract helps to ensure that the USMS is complying with the federal procurement statutes and regulations when it acquires medical services for its prisoners.

It also ensures that the USMS prisoner medical claims are re-priced to Medicare rates in accordance with the provisions of 18 U.S.C. 4006. The NMCC has also reduced the prisoner medical-related administrative workload of the districts. The NMCC contractor is processing and paying the entire contract-related prisoner medical bills on behalf of the districts. Finally, the NMCC provides for a national discount pharmacy program that allows the USMS to receive discounts on the medications that the USMS purchases for its prisoners. The NMCC has been fully implemented in all USMS districts.





**Performance Plan and Report:****Measure:** Health Care Cost Per Capital (Medical Treatment and Security)**FY 2015 Target:** \$2,196**FY 2015 Actual:** \$2,168**FPD Performance Goal 4****Ensure detention facilities meet established standards for confinement****Challenge: Varying Detention Standards**

Concurrent with the desire to create efficiencies within detention is the need to ensure that facilities provide for the safe, secure, and humane confinement of detainees. This is especially challenging considering the vast number of state, local, and private facilities in use. The standard for confinement at these facilities varies according to local and state requirements. To address this issue, a comprehensive Quality Assurance Program was developed to ensure that the facilities providing detention bed space to the federal government meet confinement standards.

***Strategy: Continuation of the Comprehensive Quality Assurance Program***

The Quality Assurance Program is a multi-faceted approach to ensure the safe, secure, and humane confinement of detainees and addresses Congress' concerns for public safety as it relates to violent prisoners (e.g., *Interstate Transportation of Dangerous Criminals Act*, also known as *Jenna's Act*). The Federal Performance-Based Detention Standards (FPBDS) provide the foundation for the program, while the various program components ensure compliance to the standards. These components (listed below) cover all aspects of detention from construction to operational review and training.

- ***Performance-Based Contracts:*** To define acceptable conditions of confinement, FPBDS was created in cooperation and coordination with the BOP, USMS, and ICE. The FPBDS provides objective standards to ensure that all providers achieve and maintain the standards. Federal contracts are written or modified to reflect the FPBDS for all private contract facilities. To ensure compliance with the standards, private contractor performance evaluation and, consequently, compensation are based on the facility's ability to demonstrate alignment with the standards.
- ***Quality Assurance Reviews (QARs):*** The QAR program conducts on-site reviews for Targeted Non-federal Facilities, defined as: private facilities and select IGA facilities. A review identifies and reflects facility deficiencies as related to the delivery of contract services. A corrective action plan developed by the facility to address deficiencies is monitored by USMS until resolution. Since the implementation of the QAR program there has been quantifiable improvement in the quality of detention services. Specifically notable is the reduction in repeat deficiencies. The cumulative effect of these improvements resulted in increased ratings and services.

The table below captures the categories of QARs and relative performance goals. All actively used IGA facilities receive an annual review utilizing the Detention Investigative Facility Report.



Outcome Measure: Percentage of Targeted Non-federal Facilities Meeting Minimum Standards									
Facility		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015		FY 2016	FY 2017
Type	Size (ADP)	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Goal: 100% Meet Minimum Standards									
		100%	100%	100%	100%	100%	100%	100%	100%
Private	N/A	14	14	14	14	15	15	18	18
	Large	100	100%	100%	100%	N/A	N/A	N/A	N/A
IGA	> 480	9	9	9	9	N/A	N/A	N/A	N/A
		100%	100%	100%	100%	100%	100%	100%	100%
Subtotal:		23	23	23	23	15	15	18	18

- **Private Detention Facility Construction and Activation Monitoring:** To ensure that newly constructed facilities meet all aspects of the FPBDS in addition to local and state requirements, a contract was awarded to monitor private detention facility construction and activation.
- **Joint Review Initiative (JRI):** The USMS will continue to coordinate with the federal government detention stakeholders to develop the JRI for facility inspections. The JRI will facilitate joint reviews of shared USMS/ICE/BOP IGA facilities using a single federal baseline detention standard.

#### Performance Plan and Report:

**Measure:** Number of Targeted Non-federal Facilities Meeting Minimum Standards

**FY 2015 Target:** 15

**FY 2015 Actual:** 15



## V. Program Increases by Item

<b>Item Name:</b>	<b><u>Housing of USMS Detainees</u></b>
<b>Strategic Goal:</b>	<u>3 - Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local, Tribal and International Levels</u>
<b>Strategic Objective:</b>	<u>3.3 - Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates.</u>
<b>Budget Decision Unit(s):</b>	<u>Detention Services</u>
<b>Organizational Program:</b>	<u>Prisoner Operations</u>

Program Increase: Positions 0 Agt/Atty 0 FTE 0 Dollars \$1,948,000

### **Description of Item**

The USMS requests an increase of **\$1,948,000** for costs associated with prisoner detention and care. The resources requested will fund inflationary detention costs and the additional bed space needed for an increased detention population.

### **Justification**

The requested resources will provide housing and care for federal detainees remanded to USMS custody. Resources for detention are expended from the time a prisoner is brought into USMS custody through termination of the criminal proceeding and/or commitment to the BOP. The size of the detainee population is dependent upon the number of persons arrested by the federal law enforcement agencies coupled with the length of time defendants are detained pending adjudication, release, or subsequent transfer to the BOP following conviction and sentencing. The USMS uses a Detention Population Forecasting Model to predict detention needs. The FY 2017 projection assumes that law enforcement and prosecutorial priorities will remain the same. The requested resources will provide funding for an increased detention population.

Starting in FY 2012, the USMS experienced an unprecedented decrease in the detention population. The USMS attributes this trend to the declining rate of arrests/bookings coupled with prisoners spending less time in detention. In response, the USMS has lowered its population projections to reflect a slower rate of growth. The USMS believes that the current projection provides the best estimate based on the current information. The USMS cannot control the number of detainees that enter the system nor can it release detainees to stay within available funding, therefore, projections can swing wildly within a short amount of time.

### **Impact on Performance**

The requested increase contributes to the Department's Strategic Goal 3: Ensure and Support the Fair, Impartial, Efficient, and Transparent Administration of Justice at the Federal, State, Local,



Tribal and International Levels. Within this goal, the requested resources specifically address the Department's Strategic Objective 3.3: Provide safe, secure, humane, and cost-effective confinement and transportation of federal detainees and inmates.

The USMS requires additional resources to house all federal detainees. Without this increase, the USMS will be unable to house all federal detainees in custody. The requested increase is based on the projected ADP. The performance measures currently reported in the Budget reflect the costs associated with the projected population.



**Funding**Base Funding

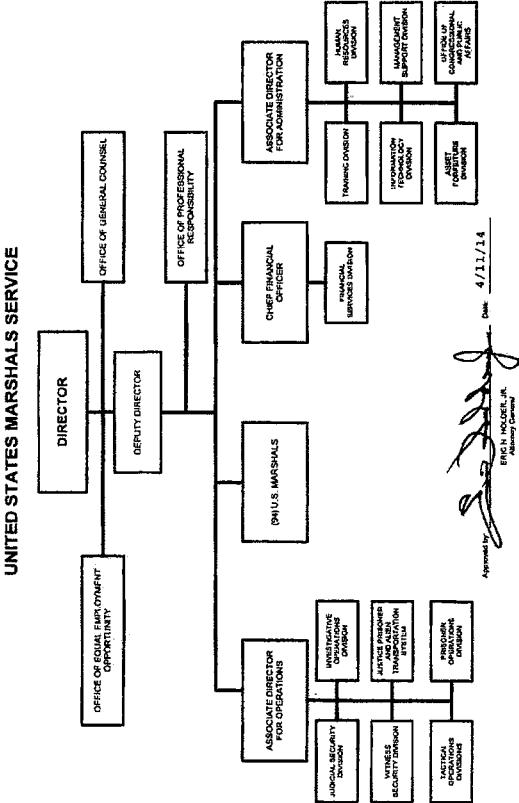
FY 2015 Enacted				FY 2016 Enacted				FY 2017 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
17		12	495,307	19		19	1,454,414	19		19	1,502,061

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Housing of Detainees			\$1,948	\$0	\$0
Total Non- Personnel			\$1,948	\$0	\$0

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	19		19	\$3,492	\$1,498,569	\$1,502,061		
Increases					\$1,948	\$1,948		
Grand Total	19		19	\$3,492	\$1,500,517	\$1,504,009		







B. Summary of Requirements

**Summary of Requirements**  
**U.S. Marshals Service**  
**Federal Prisoner Detention**  
(Dollars in Thousands)

1002

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	17	12	495,307
2015 Balance Rescission		0	-188,000
<b>Total 2015 Enacted with Rescissions 1/</b>	17	12	307,307
<b>2016 Enacted</b>	19	19	1,454,414
2016 Balance Rescission	0	0	-195,974
<b>Total 2016 Enacted</b>	19	19	1,258,440
<b>Technical Adjustments</b>			
Restoration of Rescission - FPD	0	0	195,974
<b>Total Technical Adjustments</b>	0	0	195,974
<b>Base Adjustments</b>			
Pay and Benefits	0	0	47
Prison and Detention	0	0	47,600
<b>Total Base Adjustments</b>	0	0	47,647
<b>Total Technical and Base Adjustments</b>	0	0	243,621
<b>2017 Current Services</b>	19	19	1,502,061
<b>Program Changes</b>			
Increases:			
Housing of USMS Detainees	0	0	1,948
Subtotal, Increases	0	0	1,948
<b>Total Program Changes</b>	0	0	1,948
<b>2017 Total Request</b>	19	19	1,504,009
2017 Balance Rescission (if applicable)	0	0	-24,000
<b>2017 Total Request (with Balance Rescission)</b>	19	19	1,480,009
<b>2016 - 2017 Total Change</b>	0	0	221,569

<sup>1/</sup> FY 2016 FTE is actual



**Summary of Requirements**  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Technical and Base			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Federal Prisoner Detention	17	12	495,307	19	19	1,454,414		0	47,647	19	19	1,502,061
<b>Total Direct</b>	<b>17</b>	<b>12</b>	<b>495,307</b>	<b>19</b>	<b>19</b>	<b>1,454,414</b>	<b>0</b>	<b>0</b>	<b>47,647</b>	<b>19</b>	<b>19</b>	<b>1,502,061</b>
Balance Rescission			-188,000			-195,974			195,974			0
<b>Total Direct with Rescission</b>			<b>307,307</b>			<b>1,258,440</b>			<b>243,621</b>			<b>1,502,061</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>12</b>			<b>19</b>			<b>0</b>			<b>19</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>12</b>			<b>19</b>			<b>0</b>			<b>19</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Federal Prisoner Detention	0	0	1,948	0	0	0	19	19	1,504,009
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>1,948</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>19</b>	<b>19</b>	<b>1,504,009</b>
Balance Rescission			0			-24,000			-24,000
<b>Total Direct with Rescission</b>			<b>1,948</b>			<b>-24,000</b>			<b>1,480,009</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>		<b>0</b>			<b>0</b>			<b>19</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>0</b>			<b>0</b>			<b>19</b>	







Resources by Department of Justice Strategic Goal and Objective  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Requested		
	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE	Direct & Reimb FTE	Direct Amount	Reimb FTE
Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels																		
3.3 Provide safe, secure, humane, and cost effective confinement and transportation of federal detainees and inmates.	12	485,307	19	1,454,414	19	1,454,414	18	1,502,061	0	1,948	0	1,948	0	0	0	19	1,504,009	0
Subtotal, Goal 3	12	485,307	19	1,454,414	19	1,454,414	18	1,502,061	0	1,948	0	1,948	0	0	0	19	1,504,009	0
TOTAL	12	485,307	19	1,454,414	19	1,454,414	18	1,502,061	0	1,948	0	1,948	0	0	0	19	1,504,009	0



**Justifications for Technical and Base Adjustments**  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Technical Adjustments</b>			
1 Restoration of Rescission - FPD This request restores base resources for the FPD account to ensure that sufficient base resources are maintained.	0	0	195,974
<b>Subtotal, Technical Adjustments</b>	<b>0</b>	<b>0</b>	<b>195,974</b>
<b>Pay and Benefits</b>			
1 2017 Pay Raise - 1.6% This request provides for a proposed 1.6 percent pay raise to be effective in January of 2017. The amount request, \$46, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$33 for pay and \$13 for benefits).	0	0	46
2 Annualization of 2016 Pay Raise This pay annualization represents first quarter amounts (October through December) of the 2016 pay increase of 1.3% included in the 2016 Appropriation. The amount requested \$10, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$7 for pay and \$3 for benefits).	0	0	10
3 Changes in Compensable Days The decreased cost for one less compensable day in FY 2017 compared to FY 2016 is calculated by dividing the FY 2016 estimated personnel compensation \$2,674 and applicable benefits \$771 by 262 compensable days.	0	0	-12
4 Health Insurance Effective January 2016, the component's contribution to Federal employees' health insurance increases by 1.5 percent. Applied against the 2015 estimate of \$64, the additional amount required is \$2.	0	0	2
5 Retirement Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 0.8 percent per year. The requested increase of \$1 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	1
<b>Subtotal, Pay and Benefits</b>	<b>0</b>	<b>0</b>	<b>47</b>



Justifications for Technical and Base Adjustments  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Prison and Detention</b>			
<b>1 Jail Day Increase - FPD</b> This request recasts the estimated 2016 state and local jail days using the anticipated 2016 increase in the national jail day rate average. The requested increase reflects the additional resources required to fund the same number of jail days in 2017 as in 2016. Jail day costs are projected to rise from the current anticipated 2016 level. An increase of \$47,600 is requested for FY 2017.	0	0	47,600
<b>Subtotal, Prison and Detention</b>	0	0	47,600
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	243,621



# Crosswalk of 2015 Availability

U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount			Direct Pos.	Actual FTE	Amount
Federal Prisoner Detention	17	12	495,307	0	0	1,103,868	208,443	18,021	17	12	1,825,639
<b>Total Direct</b>	<b>17</b>	<b>12</b>	<b>495,307</b>	<b>0</b>	<b>0</b>	<b>1,103,868</b>	<b>208,443</b>	<b>18,021</b>	<b>17</b>	<b>12</b>	<b>1,825,639</b>
Balance Rescission			-188,000			0	0	0			-188,000
Total Direct with Rescission			307,307			1,103,868	208,443	18,021			1,637,639
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		12			0					12	
Other FTE											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>12</b>			<b>0</b>					<b>12</b>	

**Reprogrammings/Transfers:** The FPD account (15-X-1020) was not appropriated funding at the President's Budget request level. Instead, the FY 2015 Enacted appropriations instructed the Department to use \$1,100,000,000 of the Assets Forfeiture Funds excess unobligated balances available in FY 2015. Unobligated balances of \$3,698,176 were transferred from the Office of Federal Detention Trustee account (15-X-0136).

**Carryover:** FPD carried forward \$208,443,249 from funds provided in FY 2014.

**Recoveries/Refunds:** Recoveries from prior year obligations are \$18,020,985. Funding will be used for regular detention activities consistent with the manner in which it was originally appropriated.



**Crosswalk of 2016 Availability**  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Federal Prisoner Detention	19	19	1,454,414	0	0	61,200	184,669	23,650	19	19	1,723,933
<b>Total Direct</b>	<b>19</b>	<b>19</b>	<b>1,454,414</b>	<b>0</b>	<b>0</b>	<b>61,200</b>	<b>184,669</b>	<b>23,650</b>	<b>19</b>	<b>19</b>	<b>1,723,933</b>
Balance Rescission			-195,974			0	0	0			-195,974
Total Direct with Rescission			1,258,440			61,200	184,669	23,650			1,527,959
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		19			0					19	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
<b>Grand Total, FTE</b>		<b>19</b>			<b>0</b>					<b>19</b>	

**Reprogramming/Transfers:** Pursuant to Section 505 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2015 (Division B of P.L. 113-235), as adopted by the Continuing Appropriations Act, 2016 (P.L. 114-53), the Department provided notification on October 22, 2015 of the intent to use \$61,200,000 of the balances available in the Assets Forfeiture Fund (AFF) in FY 2016 for necessary expenses related to United States prisoners in the custody of the USMS.

**Carryover:** FPD carried forward \$184,669,002 from funds provided in FY 2015.

**Recoveries/Refunds:** Recoveries from prior year obligations are estimated at approximately \$23,000,000. Funding will be used for regular detention activities consistent with the manner in which it was originally appropriated. A total of \$650,000 collections from state and local for prisoner transport is also included.



## Summary of Reimbursable Resources

U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Collections by Source	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
State and Local	0	0	0	0	0	650	0	0	650	0	0
Budgetary Resources	0	0	0	0	0	650	0	0	650	0	0

Obligations by Program Activity	2015 Actual			2016 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
Detention Services	0	0	0	0	0	650	0	0	650	0	0
Budgetary Resources	0	0	0	0	0	650	0	0	650	0	0



I. Detail of Permanent Positions by Category

**Detail of Permanent Positions by Category**  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Category	FY 2015 Enacted		FY 2016 Enacted		FY 2017 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb Pos.
Clerical and Office Services (0300-0399)	10	0	12	0	0	0	0	12	0
Accounting and Budget (500-599)	1	0	1	0	0	0	0	1	0
Business & Industry (1100-1199)	6	0	6	0	0	0	0	6	0
Total	17	0	19	0	0	0	0	19	0
Headquarters Washington D.C.	17	0	19	0	0	0	0	19	0
US Fields	0	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0	0
Total	17	0	19	0	0	0	0	19	0



**Financial Analysis of Program Changes**  
U.S. Marshals Service  
Federal Prisoner Detention  
(Dollars in Thousands)

Grades	Federal Prisoner Detention				Total Program Changes	
	Program Increases		Program Decreases		Direct Pos.	Amount
	Direct Pos.	Amount	Direct Pos.	Amount		
11.5 - Other personnel compensation		0		0		0
<b>Total FTEs and Personnel Compensation</b>		0		0		0
25.8 - Subsistence and support of persons		1,948		0		1,948
<b>Total Program Change Requests</b>	0	1,948	0	0	0	1,948



K. Summary of Requirements by Object Class

**Summary of Requirements by Object Class**  
 U.S. Marshals Service  
 Federal Prisoner Detention  
 (Dollars in Thousands)

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	12	2,227	19	1,794	19	1,850	0	56
11.3 - Other than full-time permanent	0	45	0	0	0	0	0	0
11.5 - Other personnel compensation	0	364	0	0	0	0	0	0
Overtime	0	0	0	0	0	0	0	0
Other Compensation	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	880	0	880	0	860	0	-20
<b>Total</b>	<b>12</b>	<b>3,516</b>	<b>19</b>	<b>2,674</b>	<b>19</b>	<b>2,710</b>	<b>0</b>	<b>36</b>
<b>Other Object Classes</b>								
12.1 - Civilian personnel benefits		738		771		762	0	-9
21.0 - Travel and transportation of persons		1,434		1,600		1,600	0	0
22.0 - Transportation of things		113		100		100	0	0
23.1 - GSA Rent		465		465		465	0	0
23.2 - Rental Payments to Others		1		1		1	0	0
23.3 - Communications, utilities, and miscellaneous charges		122		150		150	0	0
25.1 - Advisory and assistance services		7,897		5,800		5,800	0	0
25.2 - Other services from non-federal sources		33		500		500	0	0
25.3 - Other goods and services from federal sources		67,241		63,575		65,792	0	2,217
25.4 - Operation and maintenance of facilities		6,739		7,050		7,050	0	0
25.6 - Medical care		91,675		93,556		96,976	0	3,420
25.7 - Operation and maintenance of equipment		3,004		723		723	0	0
25.8 - Subsistence and support of persons		1,268,868		1,080,518		1,296,423	0	215,905
26.0 - Supplies and materials		200		500		500	0	0
31.0 - Equipment		371		457		457	0	0
32.0 - Land and Structures		552						
41.0 - Grants Subs and Contributions		1						
<b>Total Obligations</b>		<b>1,452,970</b>		<b>1,258,440</b>		<b>1,480,009</b>	<b>0</b>	<b>221,569</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-208,443		-184,669		-73,545	0	111,124
Transfers/Reprogramming		-1,103,868		-61,200		0	0	61,200
Recoveries/Refunds		-18,021		-23,650		0	0	23,650
Balance Rescission		188,000		195,974		24,000	0	-171,974
Unobligated End-of-Year, Available		184,669		73,545		49,545	0	-24,000
Unobligated End-of-Year, Expiring		0		0		0	0	0
<b>Total Direct Requirements</b>		<b>495,307</b>		<b>1,258,440</b>		<b>1,480,009</b>		<b>221,569</b>
Reimbursable FTE								
Full-Time Permanent	0		0		0		0	0

Note: The FPD account (15-X-1020) was not appropriated funding at the President's Budget request level. Instead, the FY 2015 Enacted appropriations instructed the Department to use \$1,100,000,000 of the Assets Forfeiture Funds excess unobligated balances available in FY 2015.

Exhibit K - Summary of Requirements by Object Class



## United States Marshals Service

### Federal Prisoner Detention (Dollars in Thousands)

#### Status of Congressionally Requested Studies, Reports, and Evaluations

1. The Senate Report associated with the Continuing Appropriations Act, 2016, page 128, directs USMS to report on a quarterly basis the number of individuals in the detention system, the projected number of individuals and the annualized costs associated with them. Target response to Committee in February, May, August, November.



## **Fees and Expenses of Witnesses**

DEPARTMENT  
OF JUSTICE

FY 2017 CONGRESSIONAL SUBMISSION





**FY 2017 Congressional Submission**  
**Fees and Expenses of Witnesses**

**Table of Contents**

Page No.

<b>I. Overview .....</b>	<b>3</b>
<b>II. Summary of Program Changes .....</b>	<b>NA</b>
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	<b>4</b>
<b>IV. Decision Unit Justification</b>	
A. Fees and Expenses of Witnesses.....	5
B. Protection of Witnesses.....	6
C. Victim Compensation Fund .....	7
D. Private Counsel.....	8
E. Superior Court Informant Program .....	9
F. Alternative Dispute Resolution .....	9
G. Foreign Counsel.....	10
<b>V. Program Increases by Item.....</b>	<b>NA</b>
<b>VI. Program Offsets by Item .....</b>	<b>NA</b>
<b>VII. Exhibits</b>	
A. Organizational Chart.....	NA
B. Summary of Requirements.....	15
C. Program Increases/Offsets by Decision Unit.....	NA
D. Resources by DOJ Strategic Goal and Strategic Objective .....	17
E. Justification for Technical and Base Adjustments.....	18
F. Crosswalk of 2015 Availability .....	19
G. Crosswalk of 2016 Availability .....	NA
H. Summary of Reimbursable Resources.....	NA
I. Detail of Permanent Positions by Category.....	NA
J. Financial Analysis of Program Changes.....	NA
K. Summary of Requirements by Object Class .....	20
L. Status of Congressionally Requested Studies, Reports, and Evaluations .....	NA



## **I. Overview for Fees and Expenses of Witnesses**

For the Fees and Expenses of Witnesses (FEW) appropriation, the Department requests a total funding level of \$270,000,000 for FY 2017 to remain available until expended. The FEW is a mandatory appropriation and is under Strategic Goal III to ensure the Fair and Efficient Administration of Justice. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address:

<http://www.justice.gov/02organizations/bpp.htm>.

The Fees and Expenses of Witnesses activity provides funding for all fees and expenses associated with the provision of testimony on behalf of the Federal Government. Specifically, there are two types of witnesses that are compensated under the provisions of this activity. Fact witnesses testify as to events or facts about which they have personal knowledge. These witnesses are paid a statutorily established rate of \$40 per day plus reasonable amounts for travel and certain other costs associated with their appearance. Expert witnesses provide technical or scientific testimony and are compensated based on negotiations with the respective Federal Government attorney. Funding allocated to this activity is also used to pay the fees of physicians and psychiatrists who examine defendants upon order of the court to determine their fitness to stand trial.

The Emergency Witness Assistance Program allows the Government to aid witnesses who might not otherwise testify because of perceived threats surrounding the litigation. This program started in 1997 and is limited to a participation period not to exceed 30 days. The services provided include transportation needs, temporary housing, temporary subsistence, emergency telephone calls, and child/elder care.

The Protection of Witnesses activity provides funding for the security of government witnesses, or potential government witnesses, and their families when their testimony, concerning organized criminal activity, may jeopardize their personal security. Typical expenses include, but are not limited to: subsistence, housing, medical and dental care, travel, documentation, identity changes, one-time relocation, costs associated with obtaining employment, and other miscellaneous expenses. This activity also provides for construction and maintenance of strategically located safesite facilities to house protected witnesses before and during trial; the purchase and maintenance of armored vehicles; and the maintenance of a secured network.

The Victim Compensation Fund was established by Section 1208 of the Comprehensive Crime Control Act (Title II of P.L. 98-473). The Fund is used by the Attorney General to "pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter." In the case of death, an amount not to exceed \$50,000 may be paid to the victim's estate. Moreover, the act authorizes payment of an amount not to exceed \$25,000 to the estate of any individual whose death was caused by a protected witness before the enactment of this law.

The Private Counsel activity was established under 28 C.F.R. § 50.15 and 50.16, whereby, the Civil Division is authorized to retain private counsel to represent government officers and employees who are sued, charged, or subpoenaed for actions taken while performing their



official duties. Further, funding allotted to this activity is used to pay private legal representation expenses associated with the provision of testimony before Congressional committees in instances wherein government counsel is precluded from representing Federal Government employees or in instances wherein private counsel is otherwise appropriate.

The District of Columbia Superior Court Informant Program (SCIP) was established upon passage of the 1991 Dire Emergency Supplemental Appropriations Act. Unlike the Witness Security program, which provides permanent relocations and identity changes, the SCIP provides temporary relocation and limited protective services to witnesses who provide prosecution testimony in District of Columbia Superior Court cases.

The Alternative Dispute Resolution activity funds the expenses of hiring third party neutrals and witnesses in resolution proceedings.

The Foreign Counsel activity was established under 28 C.F.R. § 0.46, whereby, the Civil Division is authorized to cover all other civil litigation including claims by or against the United States, its agencies or officers, in domestic or foreign courts, special proceedings, and similar civil matters not otherwise assigned, and shall employ foreign counsel to represent before foreign criminal courts, commissions or administrative agencies of the Department of Justice and all other law enforcement officers of the United States who are charged with violations of foreign law as a result of acts which they performed in the course and scope of Government services.

## **II. Summary of Program Changes**

No program changes.

## **III. Appropriations Language and Analysis of Appropriations Language**

### **Appropriations Language**

*For fees and expenses of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, including advances, and for expenses of foreign counsel, \$270,000,000, to remain available until expended, of which not to exceed \$16,000,000 is for construction of buildings for protected witness safesites; not to exceed \$3,000,000 is for the purchase and maintenance of armored and other vehicles for witness security caravans; and not to exceed \$13,000,000 is for the purchase, installation, maintenance, and upgrade of secure telecommunications equipment and a secure automated information network to store and retrieve the identities and locations of protected witnesses.*

### **Analysis of Appropriations Language**

No changes.



#### **IV. Decision Unit Justification**

##### **A. Fees and Expenses of Witnesses**

<b><i>Fees and Expenses of Witnesses</i></b>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			198,955
2016 Enacted w/Sequester			200,028
Adjustments to Base and Technical Adjustments			14,594
2017 Current Services			214,622
2017 Program Increases			0
2017 Request			214,622
<b>Total Change 2016-2017</b>			<b>14,594</b>

##### **Base Program Description:**

This program provides for payment of fees and expenses of expert witnesses who appear on behalf of the Federal Government when scientific or technical expertise is required in the prosecution or defense of a case. The pursuit of complex litigation by the Department would not be possible without qualified experts to testify and to refute the non-legal particulars of individual cases. The testimony of expert witnesses is essential to the successful outcome of such litigation. While a wide array of specialized disciplines are involved in the Department's litigation, experts from certain disciplines are used extensively. For example, approximately seventy percent of expert witnesses used by the Department in 2015 were physicians, psychiatrists, appraisers, engineers, or economists. Also, the testimony of fact witnesses is used in court proceedings by the Department's legal divisions and the United States Attorneys. Fact witnesses are needed in a wide range of court proceedings, as well as pre-trial conferences. Daily attendance fees and other expenses paid to fact witnesses are intended to defray the costs of appearing to testify. The attendance fee is set by law. Courts often order the Federal Government to pay the costs associated with mental competency examinations conducted by physicians or psychiatrists. These examinations are performed in an attempt to determine whether an accused person is mentally competent to stand trial and/or was mentally competent at the time of the offense.

##### **Planned Base Initiatives:**

- To provide adequate funding for payment of fees and related expenses incurred by individuals who provide factual, technical or scientific testimony on behalf of the United States or court designated indigent individuals, as provided by law. Funds provided for this activity also guarantee the right of accused persons to a fair and impartial trial by ensuring that the accused is mentally competent to stand trial and that the court has testimony regarding the mental competency of the accused at the time of the alleged offense.
- To provide reasonable compensation for expert witnesses, who testify on behalf of the United States, at rates established by the Attorney General or the Assistant Attorney General for Administration, pursuant to 28 U.S.C. § 524.



- To provide adequate resources to compensate fact witnesses who testify on behalf of the Federal Government for the expenses associated with the attendance at legal proceedings. The court-attendance fee paid to fact witnesses is set by law (28 U.S.C. § 1821). As a result of Public Law 96-346 (September 10, 1980), the amounts authorized for travel, per diem and mileage are set by regulations governing official travel by federal employees and promulgated by the Administrator of the General Services Administration.
- To provide adequate resources to compensate fact witnesses used by those defendants designated as indigent by the courts. Expenses are paid to those witnesses who appear in criminal proceedings in Federal court for the indigent defendants.
- To provide payment for the fees and expenses of psychiatrists who perform court-ordered evaluations to determine the mental competency of defendants, pursuant to 18 U.S.C. § 4241, § 4242, and § 4248.

### **B. Protection of Witnesses**

<b><i>Protection of Witnesses</i></b>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			40,474
2016 Enacted w/Sequester			40,692
Adjustments to Base and Technical Adjustments			0
2017 Current Services			43,661
2017 Program Increases			0
2017 Request			43,661
<b>Total Change 2016-2017</b>			<b>2,969</b>

### **Base Program Description:**

The procedure for designating a person as a protected witness is set forth in Department of Justice OBD Order 2110.2 "Witness Protection and Maintenance Policy and Procedures." This order places within the United States Marshals Service the responsibility for the security of these witnesses and their families. This program provides for their financial maintenance including the following: subsistence expenses; housing; medical and dental expenses; travel; documentation expenses for identity changes; one-time relocation; costs for obtaining employment; and other miscellaneous expenses. This activity also provides for construction and maintenance of strategically located safesite facilities to house protected witnesses before and during trial. Therefore, the Witness Protection Program provides the funding for the protective services offered to the District of Columbia Superior Court Witnesses for subsistence expenses; travel; temporary relocation and other miscellaneous expenses.

### **Planned Base Initiatives:**

- To increase the effectiveness of the Department's efforts to combat criminal activity in such areas as organized crime, drugs or narcotics, and murder or



conspiracy to commit murder, by ensuring the safety of endangered or threatened witnesses.

- To protect witnesses and their families when the testimony of the witnesses may jeopardize their personal security.
- To compensate witnesses for subsistence costs such as housing, food, relocation, and incidental expenses as provided by the Witnesses Security Reform Act of 1984.
- To provide orientation, documentation, and family-oriented services to new WITSEC Program entrants.
- To increase the effectiveness of Federal prosecutions in the District of Columbia by providing funding to temporarily relocate District of Columbia Superior witnesses who face potential danger as a result of their participation in Superior Court prosecutions.
- To provide funding to temporarily protect Superior Court witnesses and their families when the testimony of the witnesses may jeopardize their personal security.
- To compensate Superior Court witnesses for subsistence costs such as food, temporary relocation, and other expenses incidental to their protection.

### **C. Victim Compensation Fund**

<i><b>Victim Compensation Fund</b></i>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			0
2016 Enacted w/Sequester			0
Adjustments to Base and Technical Adjustments			0
2017 Current Services			0
2017 Program Increases			0
2017 Request			0
<b>Total Change 2016-2017</b>			0

### **Base Program Description:**

This program provides resources to compensate individuals who are victimized by protected witnesses. The Fund was initially funded by the 1985 Supplemental Appropriations Act (P.L. 99-88).

Restitution will not exceed \$50,000 for those victimized since the establishment of the Fund. Restitution not to exceed \$25,000 shall be paid to the estate of victims killed as a result of crimes committed by persons who have been enrolled in the Witness Security Program if such crimes were committed prior to enactment of P.L. 98-473. The Department paid \$22,500 from this program in FY 2006 and 2007 but has not provided funds since. No costs are anticipated for this program in FY 2016 and FY 2017.



Planned Base Initiative:

- To provide compensation to those individuals, or, in the case of death, to the individual's estate, who are victimized by a protected witness.

**D. Private Counsel**

<i>Private Counsel</i>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			6,489
2016 Enacted w/Sequester			6,524
Adjustments to Base and Technical Adjustments			0
2017 Current Services			7,000
2017 Program Increases			0
2017 Request			7,000
<b>Total Change 2016-2017</b>			<b>6,524</b>

Base Program Description:

This activity provides funding to allow the Department to retain outside private counsel to represent Government officers and employees who are sued for actions taken while performing their official duties. As provided for under 28 C.F.R. § 50.15 and 50.16, the Civil Division is delegated the authority to retain such counsel and further provided that payments for such services will be payable from the Department of Justice appropriations.

Planned Base Initiatives:

- To continue to defend Federal employees personally sued for carrying out official duties. To retain private counsel to represent Government officers and employees who are sued for actions taken while performing their official duties.



**E. Superior Court Informant Program**

<b><i>Superior Court Informant Program</i></b>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			0
2016 Enacted w/Sequester			0
Adjustments to Base and Technical Adjustments			0
2017 Current Services			0
2017 Program Increases			0
2017 Request			0
<b>Total Change 2016-2017</b>			<b>0</b>

**Base Program Description:**

This program provides for funding for the protective services offered to the District of Columbia Superior Court witnesses. Specifically, funding is provided for subsistence expenses; travel; temporary relocation and other miscellaneous expenses. Funding in 1996 was provided from available balances. All participants have already converted to the Witness Security Program (WSP). No one has entered this short term program since 2004. Due to the lack of activity in this program, previously available funding has been moved into the allotment for Protection of Witnesses where SCIP funding originated.

**F. Alternative Dispute Resolution**

<b><i>Alternative Dispute Resolution</i></b>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			1,205
2016 Enacted w/Sequester			1,212
Adjustments to Base and Technical Adjustments			0
2017 Current Services			1,300
2017 Program Increases			0
2017 Request			1,300
<b>Total Change 2016-2017</b>			<b>88</b>

**Base Program Description:**

Alternative Dispute Resolution (ADR) encompasses a wide range of problem-solving and conflict management techniques including mediation, early neutral evaluation, arbitration and mini-trials. ADR processes offer the opportunity to settle pending civil litigation in ways that can be more efficient than unassisted negotiations, and on terms that can be more advantageous to the parties. According to the National Performance Review, ADR can enhance the public's access to justice by reducing delays and costs associated with government litigation. ADR can provide quick solutions in government disputes which, in turn, produce savings in interest payments on outstanding debts that the government owes in cases in litigation. ADR can provide flexibility, creativity, and control that lawyers and clients do not enjoy in litigation. Moreover, ADR often produces better, more comprehensive long-term solutions to problems.



Planned Base Initiatives:

- To attempt resolution of civil disputes and litigation by using professional services of a mediator, arbitrator, or other alternative dispute resolution provider.
- To provide funding to pay the Government's share of the costs incurred during ADR proceedings.

**G: Foreign Counsel**

<i>Foreign Counsel</i>	<b>Direct Pos.</b>	<b>Est FTE</b>	<b>Amount</b>
2015 Enacted w/Sequester			3,167
2016 Enacted w/Sequester			3,184
Adjustments to Base and Technical Adjustments			0
2017 Current Services			3,417
2017 Program Increases			0
2017 Request			3,417
<b>Total Change 2016-2017</b>			233

Base Program Description:

This activity provides funding to allow the Department to retain outside foreign counsel to represent Government officers and employees who are sued in a foreign country while performing their official duties. As provided under 28 C.F.R. § 0.46, the Civil Division is delegated the authority to retain such counsel and further provided that payment for such services will be payable from the Department of Justice appropriations.

Planned Base Initiatives:

- To continue to defend Federal employees personally sued for carrying out official duties. To retain foreign counsel to represent Government officers and employees who are sued for actions taken while performing their official duties in a foreign country.



**Summary of Requirements**  
**Fees and Expenses of Witnesses**  
**Salaries and Expenses**  
(Dollars in Thousands)

	FY 2017 Request		
	Direct Pos.	Estimate FTE	Amount
<b>2015 Enacted 1/</b>	0	0	270,000
2015 Sequester Cut	0	0	-19,710
<b>Total 2015 Enacted with Rescissions 1/</b>	0	0	250,290
<b>2016 Enacted</b>	0	0	270,000
2016 Sequester Cut	0	0	-18,360
<b>Total 2016 Enacted</b>	0	0	251,640
<b>Technical Adjustments</b>			
Restoration of 2016 Sequester	0	0	18,360
<b>Total Technical Adjustments</b>	0	0	18,360
<b>Base Adjustments</b>			
<b>Total Technical and Base Adjustments</b>	0	0	18,360
<b>2017 Current Services</b>	0	0	270,000
<b>2017 Total Request</b>	0	0	270,000
<b>2016 - 2017 Total Change</b>	0	0	18,360

<sup>1/</sup> FY 2015 FTE is actual



B. Summary of Requirements

**Summary of Requirements**  
Fees and Expenses of Witnesses  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Enacted w/Sequester			FY 2016 Enacted w/Sequester			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Fees and Expenses of Witnesses	0	0	188,995	0	0	200,028	0	0	14,594	0	0	214,622
Protection of Witnesses	0	0	40,474	0	0	40,692	0	0	2,969	0	0	43,661
Victim Compensation	0	0	0	0	0	0	0	0	0	0	0	0
Private Counsel	0	0	6,469	0	0	6,524	0	0	476	0	0	7,000
Superior Court Informant	0	0	0	0	0	0	0	0	0	0	0	0
Foreign Counsel	0	0	3,168	0	0	3,184	0	0	233	0	0	3,417
Alternative Dispute Resolution	0	0	1,204	0	0	1,212	0	0	86	0	0	1,300
<b>Total Direct</b>	0	0	250,290	0	0	251,640	0	0	18,360	0	0	270,000
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>			250,290			251,640			18,360			270,000
Reimbursable FTE	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total Direct and Reimb. FTE</b>	0	0	0	0	0	0	0	0	0	0	0	0
Other FTE:												
LEAP	0	0	0	0	0	0	0	0	0	0	0	0
Overtime	0	0	0	0	0	0	0	0	0	0	0	0
<b>Grand Total, FTE</b>	0	0	0	0	0	0	0	0	0	0	0	0

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Fees and Expenses of Witnesses	0	0	0	0	0	0	0	0	214,622
Protection of Witnesses	0	0	0	0	0	0	0	0	43,661
Victim Compensation	0	0	0	0	0	0	0	0	0
Private Counsel	0	0	0	0	0	0	0	0	7,000
Superior Court Informant	0	0	0	0	0	0	0	0	0
Foreign Counsel	0	0	0	0	0	0	0	0	3,417
Alternative Dispute Resolution	0	0	0	0	0	0	0	0	1,300
<b>Total Direct</b>	0	0	0	0	0	0	0	0	270,000
Balance Rescission			0			0			0
<b>Total Direct with Rescission</b>			0			0			270,000
Reimbursable FTE	0	0	0	0	0	0	0	0	0
<b>Total Direct and Reimb. FTE</b>	0	0	0	0	0	0	0	0	0
Other FTE:									
LEAP	0	0	0	0	0	0	0	0	0
Overtime	0	0	0	0	0	0	0	0	0
<b>Grand Total, FTE</b>	0	0	0	0	0	0	0	0	0



Resources by Department of Justice Strategic Goal and Objective

Fees and Expenses of Witnesses  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2015 Enacted w/			FY 2016 Enacted w/			FY 2017 Current			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total		
	Sequester		Direct & Reimb FTE	Sequester		Direct & Reimb FTE	Services		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Request		Direct Amount
	Direct & Reimb	Amount		Direct & Reimb	Amount		Direct & Reimb	Amount		Amount			Amount			Amount		
Goal 3 Ensure and support the fair, impartial, efficient, and transparent administration of justice at the federal, state, local, tribal, and international levels	0	250,290		0	251,640		0	270,000		0	0	0	0	0	0			270,000
3.2 Protect judges, witnesses, and other participants in federal proceedings by anticipating, deterring, and investigating threats of violence.																		
Subtotal, Goal 3	0	250,290		0	251,640		0	270,000		0	0	0	0	0	0			270,000
TOTAL	0	250,290		0	251,640		0	270,000		0	0	0	0	0	0			270,000



**Justifications for Technical and Base Adjustments**  
Fees and Expenses of Witnesses  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Technical Adjustments</b>			
1 Restoration of 2016 Sequester	0	0	18,360
Subtotal, Technical Adjustments	0	0	18,360
<b>TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS</b>	0	0	18,360



**Crosswalk of 2015 Availability**  
**Fees and Expenses of Witnesses**  
**Salaries and Expenses**  
**(Dollars in Thousands)**

1029

Program Activity	FY 2015 Enacted			Reprogramming/Transfers			Carryover		Recoveries/ Refunds	FY 2015 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount		Direct Pos.	Est. FTE	Amount
Fees and Expenses of Witnesses	0	0	214,622	0	0	-10,731	178,298	31,318		0	0	413,507
Protection of Witnesses	0	0	43,661	0	0	-2,183	36,271	6,371		0	0	84,120
Victim Compensation	0	0	0	0	0	0	0	0		0	0	0
Private Counsel	0	0	7,000	0	0	-350	5,815	1,021		0	0	13,488
Superior Court Informant	0	0	0	0	0	0	0	0		0	0	0
Foreign Counsel	0	0	3,417	0	0	-171	2,839	499		0	0	6,584
Alternative Dispute Resolution	0	0	1,300	0	0	-65	1,080	190		0	0	2,505
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>270,000</b>	<b>0</b>	<b>0</b>	<b>-13,500</b>	<b>224,303</b>	<b>39,399</b>		<b>0</b>	<b>0</b>	<b>520,202</b>
Balance Rescission			-19,710			0	0	0				-19,710
Total Direct with Rescission			250,290			-13,500	224,303	39,399				500,492
Reimbursable FTE		0			0						0	
Total Direct and Reimb. FTE		0			0						0	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		0			0						0	

**Reprogramming/Transfers:**

\$13.5 million was transferred to the Criminal Division to support the Mutual Legal Assistance Treaty (MLAT) initiative.

**Carryover:**

FY 2015 had carryover of \$224.3 million in unobligated balances.

**Recoveries/Refunds:**

FY 2015 Recoveries totaled \$39.4 million.



**Crosswalk of 2016 Availability**  
Fees and Expenses of Witnesses  
Salaries and Expenses  
(Dollars in Thousands)

1030

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover	Recoveries/Refunds	FY 2016 Availability		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Amount	Amount	Direct Pos.	Est. FTE	Amount
Fees and Expenses of Witnesses	0	0	214,622	0	0	0	176,969	23,847	0	0	415,438
Protection of Witnesses	0	0	43,661	0	0	0	36,001	4,851	0	0	84,513
Victim Compensation	0	0	0	0	0	0	0	0	0	0	0
Private Counsel	0	0	7,000	0	0	0	5,772	778	0	0	13,550
Superior Court Informant	0	0	0	0	0	0	0	0	0	0	0
Foreign Counsel	0	0	3,417	0	0	0	2,817	380	0	0	6,614
Alternative Dispute Resolution	0	0	1,300	0	0	0	1,072	144	0	0	2,516
<b>Total Direct</b>	<b>0</b>	<b>0</b>	<b>270,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>222,631</b>	<b>30,000</b>	<b>0</b>	<b>0</b>	<b>522,631</b>
Balance Rescission			-18,360			0	0	0			-18,360
Total Direct with Rescission			251,640			0	222,631	30,000			504,271
Reimbursable FTE		0			0					0	
Total Direct and Reimb. FTE		0			0					0	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total, FTE		0			0					0	

**Reprogramming/Transfers:**

No reprogrammings or transfers are expected in FY 2016.

**Carryover:**

FY 2016 carryover was \$222.6 million in unobligated balances.

**Recoveries/Refunds:**

FY 2016 estimated recoveries are \$30.0 million.



**Summary of Requirements by Object Class**  
**Fees and Expenses of Witnesses**  
**Salaries and Expenses**  
(Dollars in Thousands)

K. Summary of Requirements by Object Class

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act. FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 - Full-time permanent	0	0	0	0	0	0	0	0
11.3 - Other than full-time permanent	0	0	0	0	0	0	0	0
11.5 - Other personnel compensation	0	211,076	0	220,297	0	235,490	0	15,193
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 - Special personal services payments	0	49,484	0	51,646	0	55,208	0	3,562
<b>Total</b>	<b>0</b>	<b>260,560</b>	<b>0</b>	<b>271,943</b>	<b>0</b>	<b>290,698</b>	<b>0</b>	<b>18,755</b>
<b>Other Object Classes</b>								
21.0 - Travel and transportation of persons		6,270		6,544		6,995		451
22.0 - Transportation of things		7		7		8		1
25.1 - Advisory and assistance services		950		992		1,060		68
25.2 - Other services from non-federal sources		2		2		2		0
25.3 - Other goods and services from federal sources		3,830		3,997		4,273		276
25.6 - Medical care		16		17		18		1
25.8 - Subsistence and support of persons		6,190		6,460		6,906		446
26.0 - Supplies and materials		18		19		20		1
31.0 - Equipment		18		19		20		1
<b>Total Obligations</b>		<b>277,861</b>		<b>290,000</b>		<b>310,000</b>	<b>0</b>	<b>20,000</b>
<b>Net of:</b>								
Unobligated Balance, Start-of-Year		-224,303		-222,631		-214,271		8,360
Transfers/Reprogramming		13,500		0		0		0
Recoveries/Refunds		-39,399		-30,000		-25,000		5,000
Balance Rescission		19,710		18,360		0		-18,360
Unobligated End-of-Year, Available		222,631		214,271		199,271		-15,000
Unobligated End-of-Year, Expiring						0		0
<b>Total Direct Requirements</b>		<b>270,000</b>		<b>270,000</b>		<b>270,000</b>		<b>0</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0		0		0			



# **United States Department of Justice**



## **Community Relations Service FY 2017 Performance Budget Congressional Submission**



## TABLE OF CONTENTS

	Page No.
<b>I. Overview .....</b>	4
<b>II. Summary of Program Changes.....</b>	12
<b>III. Appropriations Language and Analysis of Appropriations Language.....</b>	13
<b>IV. Program Activity Justification</b>	
A. Community Relations Service	
1. Program Description .....	14
2. Performance Tables .....	15
3. Performance, Resources, and Strategies .....	17
<b>V. Program Increases by Item</b>	
A. Program Increases by Item .....	19
<b>VII. Exhibits</b>	
A. Organizational Chart	
B. Summary of Requirements	
C. FY 2017 Program Increases/Offsets by Decision Unit	
D. Resources by DOJ Strategic Goal and Strategic Objective	
E. Justification for Base Adjustments	
F. Crosswalk of 2015 Availability	
G. Crosswalk of 2016 Availability	
H. Summary of Reimbursable Resources	
I. Detail of Permanent Positions by Category	
J. Financial Analysis of Program Changes	
K. Summary of Requirements by Object Class	



## I. Overview for Community Relations Service

### Introduction

The Community Relations Service (CRS), an agency within the U.S. Department of Justice, was established by Title X of the historic Civil Rights Act of 1964 (42 U.S.C. §2000g et seq.) and signed into law by President Lyndon B. Johnson on July 2, 1964. Title X of the 1964 law mandated CRS' creation and its duties and responsibilities. Pursuant to the Hate Crimes Protection Act, CRS is authorized to work with communities to help them develop the capacity to prevent and respond more effectively to violent hate crimes allegedly committed on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion, or disability.

### Program Overview

CRS headquarters is in Washington, D.C. and is a single decision unit that plays a significant role in accomplishing **DOJ's Strategic Goal #2 - Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law**. CRS serves as the Department's "peacemaker" for community conflicts and tensions arising from actual or perceived discriminatory practices based on race, color, or national origin. CRS also helps communities prevent and respond to violent hate crimes committed on the basis of race, color, national origin, gender, gender identity, religion, sexual orientation, or disability.

CRS provides specialized mediation and conciliation services to state, local and federal officials, and communities throughout the United States. The Agency's goal is to assist in resolving and preventing racial, ethnic, and national origin community conflicts, civil disorder, and violent hate crimes on the basis of race, color, national origin, gender, gender identity, sexual orientation, religion, or disability.

CRS is a unique federal component dedicated to assisting state and local units of government, private and public organizations, and community groups develop local capacity to prevent racial and ethnic tensions. CRS can also assist willing parties and explore opportunities to develop and implement local strategies that can help law enforcement, local officials, civil rights organizations, and interested community groups respond to alleged hate crimes and find ways to prevent future incidents. CRS conciliators assist in restoring stability and accord to communities following civil disorder, or in initiating rumor control to prevent misinformation from spreading throughout a community.

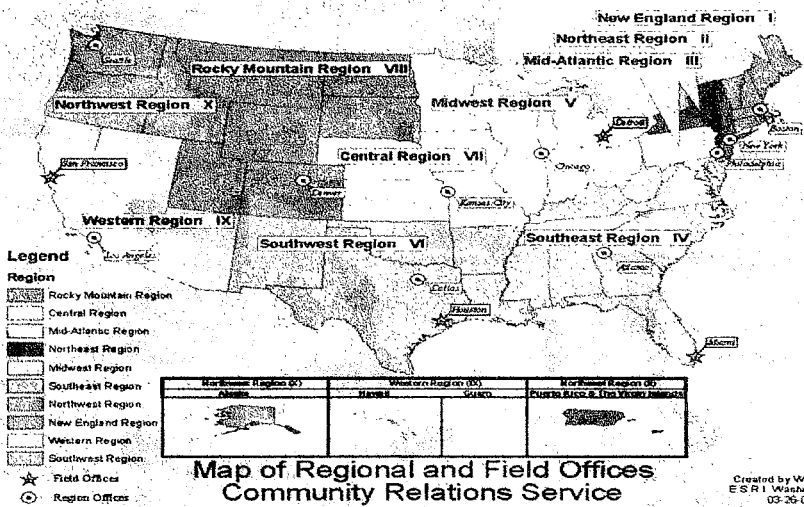
State and local law enforcement officials and community leaders may contact CRS to request assistance in improving communication between law enforcement and community members in the aftermath of a hate crime. CRS improves community response mechanisms by facilitating the development of community capacity to help prevent hate crimes with services and programs that include conciliation, mediation, training, technical assistance, and other tension reduction techniques. CRS may help facilitate dialogue between law enforcement and community members



to increase mutual understanding about the investigative and prosecutorial process as well as the concerns of people in the community.

CRS is able to also address the perception of discrimination, which can be as disruptive to community stability as actual discrimination. CRS does not have law enforcement authority, nor does it investigate or prosecute cases. As an impartial agency, CRS does not look to assign blame or fault to any individual or group. In contrast, CRS helps communities to develop and implement their own solutions to reducing tensions as a neutral conciliator. Furthermore, as alternatives to coercion or litigation, CRS facilitates the development of viable and voluntary solutions for resolution of community tension.

### Community Relations Service Map of Regional Offices



CRS has 10 regional offices and 4 field offices in the following locations: Boston; New York; Philadelphia; Chicago (field office in Detroit); Kansas City, MO; Denver; Los Angeles (field office in San Francisco); Dallas (field office in Houston); Atlanta (field office in Miami); and Seattle

### Community Relations Service Programs and Services

The Community Relations Service staff work directly with community leaders, state and local officials, civil rights leaders, law enforcement agencies and other stakeholders to support their efforts to resolve community conflicts stemming from issues of race, color, national origin and to prevent violent hate crimes committed on the bases of race, color, national origin, gender, gender identity, religion, and disability. As such CRS' primary function is traveling to communities throughout the country, and leading communities through problem solving processes. This is done through providing



an array of services and dispute resolution practices that can generally be categorized as training, consultation, facilitated dialogues, and mediation.

CRS has developed numerous programs and trainings that not only assist communities in solving their current conflicts, but also aid them in building the skills and infrastructure necessary to prevent and respond to future issues. The programs bring together representatives from local government agencies, community faith-based organizations, law enforcement, advocacy groups, and businesses in order to develop collaborative approaches for reducing conflicts and addressing the factors that have contributed to the disagreement. Examples of CRS trainings and services include:

- **Law Enforcement Mediation Program:** The CRS Law Enforcement Mediation Program is a two-day course that strengthens the problem-solving and mediation skills of law enforcement officers and commanders who serve diverse communities. CRS works with officers to identify opportunities to enhance the level of mutual trust and respect between their department and the community, and to eliminate barriers to providing more effective police services. A residual benefit of the program is that many of the issues addressed can lead to a reduced number of calls for service and an increase in patrol efficiency
- **Responding to Allegations of Racial Profiling:** CRS' eight-hour course brings together law enforcement and community members to address perceived racial profiling and biased policing practices. This course offers various benefits and can be tailored to the specific needs of a given community. It is helpful in reducing tensions and creating a shared understanding of factors that contribute to mistrust and it is an effective way to begin a police-community relations initiative or problem-solving process. It also encourages collaborative police-community relations.
- **Student Problem Identification and Resolution of Issues Together:** The SPIRIT program is a two half-day interactive student-based problem-solving program that engages students in developing solutions to problems associated with allegations of discrimination, harassment, and hate activity in schools. SPIRIT also engages school administrators, teachers, school resource officers, local officials, community leaders, and parents in the process of identifying and responding to these conflicts, and creating the safest possible environment for learning.
- **City Problem Identification and Resolution of Issues Together (City SPIRIT):** City SPIRIT is a two-day problem-solving and resolution program that brings together representatives from local government agencies, communities, faith-based organizations, law enforcement, and businesses to develop collaborative approaches for reducing conflicts and addressing the factors that contribute to the conflicts. The parties may also develop approaches for preventing and responding to alleged violent hate crimes on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion, or disability. This program helps communities establish a lasting capacity to prevent and respond to conflicts.



- **Human Relations Commission Training:** CRS provides customized training and technical assistance to local Human Relations Commissions. If a local government is interested in starting a Human Relations Commission, or if an existing Human Relations Commission is interested in best practices for responding to discrimination complaints, CRS can help. CRS will work with local officials to develop training or consultative program that supports a Commission's efforts to better serve the needs of the community.
- **Assessment of Tension Breeding Facts:** CRS is available to facilitate a comprehensive assessment of racial and gang-related ethnic tensions, as well as tensions that may lead to acts of violence in schools on the basis of gender, gender identity, sexual orientation, religion, and disability. The Agency will meet with administrators, faculty, staff, and students to collectively identify concerns and share their perspectives on issues that warrant attention. This information is captured and used to provide a snapshot of the challenges affecting a school, and facilitate a process with school officials to address these challenges.
- **Arab, Muslim, & Sikh Cultural Awareness Program:** CRS offers a four-hour program intended to familiarize law enforcement and government officials with some of the customs and cultural aspects of Arab, Muslim, and Sikh communities. The program is an effective tool for helping law enforcement avoid behavior and actions that may be perceived as offensive, or as part of a broader initiative to strengthen the relationship between local officials and the Arab, Muslim, or Sikh communities that they serve. CRS also offers a Train-the-Trainer program that prepares Arab, Muslim, and Sikh community leaders to provide local law enforcement officials and first responders with a fundamental understanding of Arab, Muslim, and Sikh cultures.
- **Hate Crimes Program:** The CRS Hate Crimes Program is a two-day training program that provides law enforcement officers with critical skills and knowledge to be utilized when addressing hate crimes. The program has been designed to familiarize officers with best practices for identifying, reporting, investigating, and prosecuting hate crimes. The program also covers strategies for effectively educating the public about hate crimes and their significance.
- **Self-Marshaling Assistance and Training:** CRS assists local law enforcement, city officials, and demonstration organizers with planning and managing safe marches and demonstrations. CRS facilitates meetings between the parties involved, and serves as a neutral entity to ensure that logistics are effectively coordinated, information is shared appropriately, and that marches and demonstrations are as safe as possible.
- **Rumor Control:** CRS assists in establishing rumor control measures following community incidents, protests, police investigations, jury verdicts, and other occurrences that contribute to the elevation of racial tension and the potential for violent hate crimes. CRS offers technical assistance on how to control inflammatory rumors with accurate and credible information by



employing a proactive and coordinated approach to publicity, formalized community-notification processes, and other appropriate information- dissemination measures.

- **Transgender Law Enforcement Training:** The CRS Transgender Law Enforcement Training is a two-hour program intended to familiarize law enforcement with transgender community members, including those who are victims of hate crimes, abuse, discrimination, intolerance, and injustice. The program is effective as a tool for helping law enforcement avoid behavior and actions that may be perceived as offensive, and can be used as part of a broader initiative to strengthen the relationship between local officials and the transgender communities that they serve. The training's intent is to support law enforcement's role in protecting and serving all community members

### **FY 2017 Budget Request**

The CRS budget consists of operating expenses which include, but are not limited to, payroll for permanent positions; travel expenses to enable CRS' conciliation professionals to respond in person to requests for assistance from state and local units of government, private and public organizations, and community groups; and funding for normal operations (e.g. information technology, communications, equipment, supplies, etc.). In fiscal year 2017, the Community Relations Service (CRS) requests **89 positions (including 2 attorneys), 71 FTE, and \$18,990,000**. CRS' request includes **3 program enhancements totaling 15 positions, 9 FTE and \$3,431,000** which will allow it to provide conciliation services (mediation, facilitated dialogues, training, and consultation on issues of police-community reconciliation) in a broad range of communities throughout the United States. This funding also includes requirements for current services that are necessary to successfully carry out other conflict resolution and violence prevention activities.

CRS has identified three major areas that are most in need for improvement. They include:

- A reconciliation initiative that addresses racial issues between law enforcement and minority communities. The need for resources that provide reconciliation services is needed more and more, and CRS cannot begin to meet these demands without additional resources to develop programs and implement programs.
- An organizational change program that helps law enforcement make the changes needed to better serve their communities.
- Update existing training programs and engage in extensive research that will strengthen CRS's services to communities.



## **Performance Challenges**

CRS is a small agency that currently consists of 74 staff and 58 FTE in FY 2016. As such, addressing the range of conflicts that develop throughout the country related to its jurisdictional mandates can be challenging. It is not uncommon to have the majority of the non-headquarters staff actively deployed to support communities at any given time. This dynamic can make it challenging to respond to all the potential cases that CRS could possibly take on, and to develop and train staff on new and developing issues and approaches to leading communities through resolution processes related to specific and persistent types of conflicts (ex. Police-Minority Community Conflicts, etc.).

Since CRS' operations consist primarily of direct services provided to communities by staff, the portion of its annual budget dedicated to travel and non-fixed costs should essentially be viewed as its operational budget. Therefore, CRS's operational capacity and funding is far less than its overall appropriation may suggest. As a result, maintaining IT infrastructure at a level consistent with need and technology enhancements and investing funds in priorities that are not directly related to serving communities directly is also a challenge.

With the passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (P.L. 111-84, 2009) ("Hate Crimes Protection Act"), CRS has dramatically expanded its jurisdiction. CRS has been transformed from an agency focused on addressing and preventing conflict and violence related to discrimination on the basis of race, color, and national origin to an agency that is responsible for helping communities prevent and respond to violent hate crimes committed on the basis of actual or perceived gender, gender identity, sexual orientation, religion, and disability in addition to race, color, and national origin.

CRS has 50 years of expert experience bringing law enforcement officials, advocacy groups, and individual community members to the table in a way that creates lasting racial stability and harmony and enables those communities to address future conflicts without outside assistance. Addressing violent hate crime communities remains a relatively new area for the component. This is compounded by the variety of issues over which CRS staff must develop mastery given the nature of hate crimes related to the broad areas of gender, gender identity, sexual orientation, religion, and disability.

CRS continues to assess its daily operations based on Administration policies and other indicators of potential conflicts, Departmental needs, technological developments, national security, and budgetary constraints. All of these internal factors pose challenges that affect the success of CRS' external conciliation and mediation services.

## **Internal Challenges**

CRS continues to face internal challenges, as it must monitor the country for jurisdictional conflicts and attempt to respond to each case with limited resources. In FY 2014, CRS intervened in 691 cases based on conflicts caused by issues of race, color, national origin. Many of these cases also involved assisting communities with preventing or responding to hate crimes committed on the basis of gender, gender identity, sexual orientation, religion, or disability. In total, CRS was made aware of 760



incidents and conflicts that could have potentially led to casework. However, due to limited fiscal and staff resources, the agency was only able to address 91 percent of the potential cases that it identified.

Moreover, it is believed that the number of conflicts and incidents is actually higher than the number CRS identified. With a field staff of 32 dedicated to identifying and responding to conflicts over a 50 state area and U.S. territories, it is not uncommon for personnel to have responsibilities that are so geographically and topically broad that their ability to track and respond to potential cases is limited.

Regional conciliators attempt to assess every jurisdictional case that has come to their attention, but budgetary and geographical limitations affect deployment decisions. CRS will continue to focus its internal efforts on building new staff capacities through succession planning, mentoring, and sustained, high-quality training. This includes a focus on improving mediation and management skills for new hires. With nearly forty percent of the Agency retirement eligible, filling higher grade positions formerly held by senior staff with lower grade or mid-level positions will inherently present a learning curve. High quality standards for leadership, in-service training, mediation certification, standardized measurable work plans, and improved tracking systems on service delivery and case reporting will remain crucial to aspects of CRS' strategy to address internal and external challenges. CRS is continually identifying new ways to increase savings across the agency through policies that increase awareness about energy and paper use by encouraging the use of double-sided printing and reducing electricity use in all of its offices.

### **External Challenges**

In response to the demonstrations, civil unrest, and the degree of mistrust between law enforcement and community that developed following the August, 2014 shooting death of an African-American male by a Ferguson, Missouri police officer, CRS has been providing consistent services throughout the country related to similar conflicts relating to police-involved shootings, allegations of biased policing, and other forms of conflicts involving law enforcement and minority communities. The advocacy of certain segments of the community, coupled with intense media coverage of the issue, has transformed a local police-involved shooting into a national movement regarding the policing of minority communities.

While CRS welcomes serving communities confronting such challenges, the frequency with which they have occurred over the past year coupled with the expectation that this frequency will increase in FY 2017, the small size of CRS' staff, its limited budget, and the need to develop and train staff on new and effective methods for dealing with this movement, presents CRS with a notable challenge. For example, over the Memorial Day weekend in FY 2015, all of CRS' non-headquarters staff were either deployed or on standby for imminent deployment to conciliate conflicts of this nature. Deployments such as these require high levels of staffing to ensure effectiveness. As we have all seen in cities such as Ferguson, New York, Baltimore, Sanford, and numerous other cities throughout the country, these issues attract large and potentially volatile protests that require an "all hands on deck" approach by CRS.



Additionally, CRS services have been requested by officials from numerous other cities that are interested in engaging their communities in the type of collaborative problem solving processes that CRS facilitates. Yet, engaging preventively before there is unrest and maintaining the capacity to respond to and serve cities that are facing imminent unrest with a small staff and limited travel resources is challenging.

This issue notwithstanding, CRS will also continue to respond to other conflicts that may not currently have the notoriety and exposure of the cases related to policing minority communities. Conflicts stemming from national origin, gender identity, religion, and tribal issues remain present at high levels and are equally in need of CRS services.

CRS must constantly reintroduce its services to community and local government leaders due to election turnover, term-limited positions, and a statutory mandate that prevents the Agency from publicizing much of its work. Furthermore, many of the people and communities CRS can serve pursuant to the Hate Crimes Prevention Act are not familiar with CRS services because they did not fall under CRS jurisdiction before passage of the Act in 2009. For example, communities who may be targeted for violent hate crimes on the basis of gender, gender identity, sexual orientation, religion, or disability may not have worked with CRS in the past when its jurisdiction was focused on addressing racial tension. Evolving community “flash points” increase the need to be knowledgeable and aware of the host of vulnerabilities that communities face. Despite these challenges, obstacles to entry and the fluctuating nature of jurisdictional conflicts do not deter CRS from offering its services to communities in need. Through skillful conciliation and mediation, CRS’ services can limit disruptions to community peace and stability. For any jurisdictional conflict, CRS stands ready to offer its conflict resolution services to communities across the United States.

The 2014 Federal Bureau of Investigations (FBI) Hate Crime Statistics Report, the most recent hate crimes statistics available from the FBI, reflect the increase in demand for services that CRS is seeing in communities across the country. According to the FBI’s Report, there was an increase in reported hate crimes against Latinos, the Gay, Lesbian, Bisexual and Transgender communities, and Muslims.



## II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
<b>Law Enforcement Community Reconciliation Initiative</b>	This enhancement supports the efforts of law enforcement agencies to successfully engage communities in racial reconciliation and restorative justice programs that will address the lack of mutual trust and respect that exists between minority communities and law enforcement agencies that are selected to participate.	13	7	\$1,676	19
<b>Law Enforcement Organizational Change Initiative</b>	This enhancement supports a consulting services contract to provide in-depth consultation and guidance to local law enforcement agencies who are party to potentially violent, public safety degrading conflicts with minority communities.	0	0	\$600	26
<b>Research and Training Development Initiative</b>	This enhancement supports the research and development, social science research, publishing of best practices materials, evaluating performance measurement and training curriculum which focuses on building collaborative efforts between law enforcement and the communities they serve.	2	2	\$1,155	30



### **III. Appropriations Language and Analysis of Appropriations Language**

#### **Appropriations Language**

##### **SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE**

For necessary expenses of the Community Relations Service, [\$14,446,000] \$18,990,000. Provided, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict resolution and violence prevention activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section [505] ~~504~~ of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section. (*Department of Justice Appropriations Act, 2015.*)

#### **Analysis of Appropriations Language**

There are no substantive changes proposed.



#### IV. Program Activity Justification

##### A. Community Relations Service

<i>Conflict Resolution &amp; Violence Prevention Activities</i>	<b>Direct Pos.</b>	<b>Estimate FTE</b>	<b>Amount</b>
2015 Enacted	56	49	12,250,000
2016 President Budget	74	58	14,446,000
Adjustments to Base and Technical Adjustments		4	1,113,000
2017 Current Services	74	62	15,559,000
2017 Program Increases	15	9	3,341,000
2017 Request	89	71	18,990,000
<b>Total Change 2016-2017</b>	<b>15</b>	<b>9</b>	<b>4,544,000</b>

##### I. Program Description

CRS' programs contribute to the **DOJ's Strategic Goal #2 –Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law**. Within this goal, CRS specifically addresses Strategic Objective 2.5 Promote and protect Americans' civil rights.

CRS has implemented several strategies, which are intended to effectively address the issues of discriminatory practices based on race, color, or national origin, which impair the rights of people, and work with communities to help prevent and respond to violent hate crimes on the basis of actual or perceived gender, gender identity, sexual orientation, religion, or disability. CRS conducts training with federal, state, and local law enforcement and community members to address concerns regarding racial profiling and to improve law enforcement officials' interactions with community members.

CRS introduced and updated several management systems to more effectively address racial tension and violence in major cities. CRS intensified its emphasis on staff development and training of staff on the fundamental skills of conflict resolution. CRS holds staff training sessions to enhance and refresh contemporary conflict resolution strategies and mediation skills. CRS instituted an internal skills certification process for fundamental tools that are used in conflict resolution cases. The Agency continues to strengthen its emphasis on local capacity building by having conciliators focus on the implementation of collaborative partnerships and other mechanisms for strategically empowering and sustaining peaceful communities.

The services of CRS are tracked in a case management database system. Quality assurance is measured by a weekly headquarters review of every new case in the CRS system. Headquarters then provides operational feedback to all 10 Regional Directors on a weekly basis, and holds managers accountable for ensuring strict compliance with CRS' jurisdictional mandate. Regions are directed to hold bi-monthly staff meetings to review casework feedback. Conciliators have made significant qualitative and technical progress on casework.



Performance and Resource Tables

2. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE										
Strategic Goal 2: Strategic Objective 2.5: Promote and Protect Americans' Civil Rights Decision Unit: Conflict Resolution & Violence Reduction Act										
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)
		FY 2015		FY 2016		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE
		49	12,250	48	12,250	58	14,446	15	4,544	71
										18,990
TYPE		PERFORMANCE		FY 2015		FY 2016		Current Services Adjustments and FY 2017 Program Changes		FY 2017 Request
Program Activity				FTE	\$000	FTE	\$000	FTE	\$000	FTE
				49	12,250	58	14,446	15	4,544	71
										18,990
Performance Measure: Output	2.5	Tension Level Ratio			35%		37.0%		35%	35%
Performance Measure: Output	2.5	Services Accepted Ratio			99%		97.0%		4	99%
Performance Measure: Output	2.5	Response Ratio			75%		100%		0	75%
Performance Measure: Output	2.5	Awareness Level Customer			20		28		0	20
Performance Measure: Output	2.5	Satisfaction Survey			80%		82%		0	80%







### 3. Performance, Resources, and Strategies

#### a. Performance Plan and Report for Outcomes

The Conflict Resolution and Violence Prevention Activities program contributes to the Department's Strategic Goal #2, Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law.

Within these goals, CRS specifically addresses *Strategic Objective 2.5: Promote and protect American civil rights by preventing and prosecuting discriminatory practices.*

Each region, composed of two to four Conciliators and one Regional Director, provides conflict resolution services to resolve disputes and disagreements based on race, color, and national origin in order to reduce community tension. CRS conducts appraisals of racial tension, in collaboration with community, state, and local officials, to determine projects that require immediate attention and demonstrate the greatest need for inclusion in a work plan for resolving racial conflict or violence. Annually, the work plan addresses those communities within each region that require conflict resolution services on an annual basis. A significant portion of the region's workload is direct crisis response services. Working to develop relationships with stakeholders and other influencers, and helping them to develop their local capacity to prevent and respond to tensions and conflicts, accounts for another significant portion of the work conducted by regional staff. CRS also prevents and responds to alleged hate crimes committed on the basis of gender, gender identity, sexual orientation, religion, or disability in addition to race, color, and national origin.

#### b. Strategies to Accomplish Outcomes

Ultimately, CRS focuses on bringing leaders from parties on opposite sides of a conflict together to begin the problem-solving process. This is done through the provision of conciliation services that can generally be categorized as including mediation, facilitated dialogues, training, and consultation services.

Given that it is often challenging to get parties talking that are in-conflict as a result of sensitive and divisive issues, CRS often relies on trainings as a starting point. Over the years CRS has found that getting parties in-conflict to receive training related to the issues stemming from the conflict is easier than getting parties to begin with dialogue. As such, all CRS trainings include both/all of the parties' in-conflict and serve as a venue to start or build upon the broader problem-solving process. Training programs include the Law Enforcement Mediation Skills (LEMS) and Anti-Racial Profiling Programs; Arab, Muslim, and Sikh (AMS) Cultural Awareness Program; the Self-Marshaling Assistance and Training Program, and the City Problem Identification and Resolution of Issues Together (City SPIRIT) program. [See Section



IV for detailed descriptions of CRS strategy programs.] These strategies are specifically designed to assist states, local communities, and tribal governments in resolving violence and conflict. CRS has been working collaboratively with four major customer groups: (1) investigative and law enforcement agencies; (2) courts, state, local and tribal governments, and federal agencies, including U.S. Attorneys, FBI, various components of the Department of Justice, Department of Housing and Urban Development, Department of the Interior, Department of Transportation/Transportation Security Administration, Department of Education, and domestic immigration officials; (3) schools, colleges, and universities; and (4) community groups and other organizations to assist and resolve racial conflict and to help communities develop the ability to more effectively prevent and respond to alleged violent hate crimes on the basis of actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion, or disability.

CRS develops strategies that focus on bringing together the energy of community leaders, organizations, and citizens to work towards crime-prevention and providing safe neighborhoods and communities for all Americans through cooperation and coordination with other Department of Justice components. CRS does not investigate or prosecute. Rather, CRS provides comprehensive services that empower communities to help themselves and maximize the federal investment at the local level through capacity building. It does so in confidence and with impartiality. By facilitating dialogue, mediating agreements, providing technical assistance and increasing cultural understanding, CRS conducts services in response to conflicts or incidents that, left unaddressed, may escalate to violent hate crimes.

To serve all the different jurisdictional areas including the ones more recently mandated by the 2009 Matthew Shepard Hate Crimes Prevention Act, CRS must continue to monitor hate crimes, conduct outreach work, and provide services. Given the continuing technology revolution and the need to serve youth, CRS continues to utilize different technology platforms to meet its mandate. CRS also continues to utilize and develop innovative conflict resolution approaches to meet the changing needs of the communities we serve.

In order to fulfill the strategic goals of the Agency, the CRS management team will continue to stress contemporary mediation skills development, conflict resolution tools, education, programs, outreach, technical assistance, accountability, adherence to performance work plans, and affirmation of a merit award system for outstanding work. CRS' success can be evaluated on how well its services assist communities in need, contributing to the Department's Conflict Resolution and Violence Prevention Activities. In addition, CRS is gauged on its success in keeping the peace in cities throughout the country when events occur that have the potential to escalate into major riots or violence. CRS continues to evaluate new methods for measuring the Agency's success, always aiming to improve upon its service delivery to American communities.



## V. Program Increases by Item

<b>Item Name:</b>	<b>Law Enforcement-Community Reconciliation Initiative</b>
Budget Decision Unit(s):	Conflict Resolution and Violence Prevention Activities
Strategic Goal(s) & Objective(s):	<b>Strategic Objective 2.5:</b> Promote and Protect Americans Civil Rights
Organizational Program:	Community Relations Service
Component Ranking of Item:	1 of 3
Program Increase: Positions	<u>13</u> Atty <u>0</u> FTE <u>7</u> Dollars <u>\$1,676,000</u>

### **Description of Item**

CRS is requesting \$1,676,000 to support the Law Enforcement Community Reconciliation Initiative. This program will support law enforcement agencies with successfully engaging communities in racial reconciliation processes that will address the lack of mutual trust and respect that exists between minority communities and law enforcement agencies that are selected to participate.

The strategic principles behind racial reconciliation and restorative justice programs are specific and extend beyond the traditional conciliation work of the Community Relations Service. Reconciliation is a method of facilitating frank engagements between minority communities, police and other authorities that allow them to address historical tensions, grievances, misconceptions, and reset relationships. In the criminal justice field, racial reconciliation denotes more than just the combining of two commonly understood words. In fact, as a practice, racial reconciliation is a currently developing approach. It addresses law enforcement relationships with minority communities and is evolving as a needed resolution to the polarization resulting from the high-profile shootings of unarmed minorities that the nation has witnessed over the past eighteen months. As such, the understanding of how to develop successful processes and how to lead law enforcement and communities through such processes is currently being researched and developed by the nation's most notable criminal justice institutions and experts.

Most notably, under the Department of Justice Office of Justice Program's (OJP) National Initiative for Building Community Trust and Justice, which is supported by the Department and the Administration, one of the Initiative's three pillars is racial reconciliation. CRS will be directly supporting the application of a racial reconciliation program in the various Initiative implementation sites. Additionally, the Community Relations Service will be working to diffuse



what is developed and learned through the experiences of the Initiative's implementation sites throughout the country by adding a formalized racial reconciliation to its core services. Doing so requires the development of a researched and evidenced-based program, the training of CRS staff on how to lead communities through a racial reconciliation process, and staffing and travel resources that enable CRS to work directly with communities throughout the country.

CRS will work closely with OJP to implement the Law Enforcement Community Reconciliation Initiative, and will likely rely on the criminal justice expertise that they have assembled under their National Initiative for Building Community Trust and Justice to develop the program. It should also be understood that CRS' request to fund the Law Enforcement Community Reconciliation Initiative is not duplicative of the work to be conducted under OJP's National Initiative for Building Community Trust and Justice. Rather, it is best viewed as taking what is developed under OJP's Initiative and ensuring that it is practically applied throughout the country.

The objectives of the Law Enforcement Community Reconciliation Initiative are to (1) create strong police-minority community collaboration efforts that focus on reducing crime, violence, and disorder; (2) engage a broad range of community stakeholders and service providers in the problem-solving process; (3) address and overcome perceptions of racially biased policing practices stemming from long-held conflicts between police and minority communities; and, (4) to develop national models that can be replicated in cities and towns throughout the country.

The Initiative will include several operational components, which are detailed below:

- **Development and Training:** CRS, with the support of a contracted external expert (academic or law enforcement sector based) shall develop a process/program for leading law enforcement agencies and communities through the development of restorative justice and racial reconciliation approaches to enhanced public safety.

In addition to the development of the process, the CRS staff that is needed to implement the program will receive training on restorative justice and racial reconciliation processes, and how to lead law enforcement agencies and communities through these processes.

- **Regional Reconciliation Forums:** CRS will conduct ten Reconciliation Forums throughout the country for the purpose of introducing restorative justice and racial reconciliation practices to regional law enforcement executives, local officials, and community leaders, and to build support for the implementation of the Law Enforcement Community Reconciliation Initiative implementation site in a given region. The forum will be hosted by CRS and the anchor law enforcement agency/ site in each of the regions. These sessions are also intended to have a positive residual impact on advancing



the discourse throughout the various regions on policing minority communities collaboratively; the readiness of law enforcement agencies and communities to more effectively respond to the unprecedented public concern about law enforcement relationships with minority communities that has developed; and, will ultimately lead to additional opportunities for CRS staff to engage communities in processes for resolving conflicts stemming from perceptions of biased policing practices.

- **Reconciliation Program Implementation:** Over the course of FY 2017 and FY 2018 CRS staff will work directly with the selected sites/cities to implement the Law Enforcement Community Reconciliation Initiative. This will generally include, but not be limited to, assessing the needs of the community and law enforcement agency and the community with all stakeholders; identifying community leaders and institutions to partner with the law enforcement agency; identifying service providers and local government agencies to partner with the law enforcement agency; and, leading all stakeholders through the Law Enforcement Community Reconciliation Initiative process that has been developed.
- **Best Practice Resource Development:** At the conclusion of the Initiative, CRS will develop a best practice resource that shall capture the challenges, best practices, and experiences of the implementation sites as they implemented the Law Enforcement Community Reconciliation Initiative. This product is intended to serve as a guide and resource to other communities throughout the United States interested in reducing crime and victimization, and overcoming the lack of trust and respect that may exist between police and minority communities through restorative, racial reconciliation practices.

### **Justification**

Recent developments related to the shooting of citizens by police have led to an unprecedented public discourse about law enforcement practices and policies as applied in minority communities throughout the United States. Beginning with the investigation into the shooting death of Trayvon Martin in Sanford, FL, numerous shootings and other perceived incidents of biased law enforcement and prosecution practices have remained in the national spotlight. These developments have led to widespread protests and demonstrations in cities and towns throughout the country that have cost municipalities an exorbitant amount of public funds, a degraded sense of public safety, a movement among various sectors of the citizenry to press for police and prosecutorial reforms, and a never before seen commitment by law enforcement executives and police unions to evolve policing practices and policies from an actual and perceived state of enforcement to “public guardianship”



However, as law enforcement, elected officials, local government leaders, and citizens are all beginning to respond to these developments, there have yet to be discernible measures established that have offset the resultant tensions and uncertainty related to establishing sustainable collaborative approaches to effectively policing minority communities. Moreover, the traditional and demonstrable law enforcement response to issues stemming from the current dynamic are often viewed by citizens seeking reforms as practices of suppression and containment, which can have the effect of further diminishing public trust. The traditional, and often unavoidable response of law enforcement, given the lack of viable alternatives, accounts for the need to disrupt civil disobedience, but neglects and sometimes doubles-down on the cause of the disobedience; racial discontent with policing practices and policies.

This leaves law enforcement, local governments, and many citizens without direction on how to overcome the divide that exists and without good options for establishing and maintaining cities and towns that are viewed as being safe and secure for all.

**Racial Reconciliation** is shorthand for a process of airing grievances and misunderstandings between minority communities affected by violence, perceptions of biased policing, and a myriad of sociable challenges that often go unaddressed but shape the environment in which law enforcement and minority communities intersect. Put another way, police are left to establish safe and secure neighborhoods in communities confronting issues that are counter to such safety and security. In addition, today's law enforcement agencies and their leaders must do so in the face of a historic divide between these communities and their departments while relying on practices and policies that are often viewed as furthering the problem. Racial Reconciliation processes set the stage for working past the historical divide that exists and collaboratively engaging these communities in both crime and broader problem solving processes.

In day-to-day interactions between law enforcement and community members – from traffic stops to searches – that history is not expressed or discussed. Yet, it powerfully influences how affected minority communities understand law enforcement actions. Without undergoing a process of acknowledging perceptions, actions, and inactions, moving beyond the historical divide is not likely, and has not yet been achieved in our nation's history.

- **By effectively engaging in racial reconciliation processes,** police and communities can more easily move toward enhanced community policing and practices that emphasize a sharing of responsibility for addressing crime and disorder so communities that have been affected by crime and disorder take an active role in addressing the issues. Although law enforcement professionals and local government leaders have a leadership role in facilitating these processes, the



affected citizens also take on responsibility for addressing crime and the resolution of problems. Together, officials and community stakeholders assess the problems, collaborate and mutually invest in approaches to address them, and gain a better understanding of the issues and limitations that each entity contends with in resolving problems.

It is anticipated that this initiative will have a significant impact on the ability of law enforcement agencies to effectively engage minority communities in reducing crime, violence, and robust public safety partnerships that help advance local community policing practices. The over-riding belief of racial reconciliation is that overcoming deeply ingrained historical divides between police and minority communities will encourage community policing partnerships that surpass what is currently possible given the often unspoken and generations-deep mistrust that exists between police and certain minority communities.

CRS conducts approximately 600 cases each year, none of which currently include formal racial reconciliation processes. The concepts and practices of true racial reconciliation processes are still in their infancy. Once this capacity is developed, and additional staff is brought on-board to implement racial reconciliation process in communities throughout the country, the CRS's annual case total will increase accordingly. Racial reconciliation programs are likely to be more in-depth and take longer than traditional conciliation cases; however, they are also anticipated to be far more impactful and sustainable.

This program is scalable, and could be implemented at a modified level by simply reducing the number of implementation cities. However, creating the most practical and informative base of replicable model approaches can be more effectively accomplished by having a broader sample of approaches.

### **Impact on Performance**

This initiative will further the Department's mission to ensure public safety and to ensure fair and impartial administration of justice for all Americans. CRS will be responsible for facilitating aspects of the initiative related to in-depth community engagements that support the Attorney General's FY 2017 funding priorities:

- **Enhancing Public Safety:** Strengthen relationships with the communities we serve and enhance our law enforcement capabilities.

*As part of establishing restorative justice programs, critical and progressive community policing practices must be employed. Supporting communities as they implement such programs offers the direct benefit of institutionalizing meaningful and*



*comprehensive community policing practices in communities under the restorative justice umbrella.*

- **Vulnerable People:** Protect the civil and constitutional rights of all Americans, particularly the most vulnerable members of society.

*The outreach, training, and technical assistance that shall be offered by CRS under this initiative supports capacity building both in the site cities, and in other cities and towns throughout the United States that will learn from, and be exposed to, the experiences and public safety advances. As indicated above, best practice materials intended to help other communities replicate these programs are a part of the request. Additionally, the request includes an increase in staffing levels that is intended to support the provision of training and technical assistance related to developing such programs throughout the country.*

CRS' work under the initiative includes working between officials and community leaders of cities to mediate agreements regarding their commitment to the program and related details on how all parties will work collaboratively; providing on-site support and conciliation services as communities and local agencies plan and implement racial reconciliation and restorative justice processes and measures to address bias and procedural justice; and administering conflict resolution tools related to issues that emerge regarding racial tension, police legitimacy and law enforcement-community relations.

The internal government performance target for this initiative will be the establishment of the restorative justice program at 10 implementation locations, and as part of the programs implementation each implementation site will develop and track targets related to the impact of the program on reducing crime and enhancing public safety.



**Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
			N/A				N/A				N/A

**Personnel Increase Cost Summary**

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Restorative Justice Conciliators GS-11	76	10	756	970	190
Program Analyst GS-12	84	2	168	216	0
Training and Resources Development Manager GS-13	94	1	94	98	0
<b>Total Personnel</b>	<b>254</b>	<b>13</b>	<b>1,018</b>	<b>1,284</b>	<b>190</b>

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
21.0 Travel			288	0	0
25.2 Contractual Services			370	0	0
<b>Total Non- Personnel</b>			<b>658</b>	<b>0</b>	<b>0</b>

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	0	0	0	0	0
Increases	13	0	7	1,018	658	1,676	1,284	190
<b>Grand Total</b>	<b>13</b>	<b>0</b>	<b>7</b>	<b>1,018</b>	<b>658</b>	<b>1,676</b>	<b>1,284</b>	<b>190</b>



**Item Name:** **Law Enforcement Organizational Change Initiative**

**Budget Decision Unit(s):** Conflict Resolution and Violence Prevention Activities

**Strategic Goal(s) & Objective(s):** **Strategic Objective 2.5:** Promote and Protect Americans' Civil Rights.

**Organizational Program:** Community Relations Service

**Component Ranking of Item:** 2 of 3

**Program Increase:** Positions   0   Atty   0   FTE   0   Dollars  \$600,000 

### **Description of Item**

CRS is requesting an enhancement of \$600,000 to support a consulting services contract to provide in-depth consultation and guidance to local law enforcement agencies who are party to potentially violent, public safety degrading conflicts with minority communities. This contract will support the provision of enhanced resources to law enforcement agency executives dealing with such a crisis, on a rapid response basis. The services will include supporting the efforts of the law enforcement agencies to better understand and quickly implement measures that support contingency planning for public disturbances, making expedient adjustments to policies and practices that are perceived as having contributed to the conflict and warrant modification, and other internal law enforcement agency needs that arise during such disturbances and conflicts.

### **Justification**

The Law Enforcement Organizational Change Initiative is intended to be a means of offering the needed level of guidance and support to the law enforcement agency as they seek to make advancements. The initiative will provide up to ten local law enforcement agencies with short-term consultative, training and technical assistance engagements needed to address their unique organizational change needs during volatile or potentially volatile conflicts.

CRS regularly engages in numerous volatile conflicts each year and provides services that support the interaction of law enforcement agencies and communities as they work to reduce and offset significant tensions. CRS' role in such cases is to lead the law enforcement agency and the community through problem solving-processes that allow them to collaborate on resolving issues. Often, this is done when civil disobedience has occurred or could potentially occur.

During the conduct of such cases, CRS regularly encounters instances when the resolution of a problem extends beyond police and community collaboration, and is dependent on changes to law enforcement practices, policies, and approaches that are outside of its' scope and expertise.



In most instances, the law enforcement agency requests immediate technical assistance on these matters in the interest of offsetting violence and public disobedience, but the Department does not have a source of providing these resources in a rapid response scenario.

The Law Enforcement Organizational Change Initiative is intended to offer services that are in alignment with the rapid response nature of CRS' case work and fill the service gap that exists between the initial CRS response and when resources offered by other DOJ components such as OJP and COPS can be offered through their comprehensive grant and technical assistance programs.

A determination of what resources are needed will be made by CRS and the law enforcement agency during a CRS initiated case.

Examples of cities where such a resource was needed, but unavailable, includes recent high profile cases in Sanford, FL., Miami Beach, FL., Dubuque, IA., Albuquerque, N.M., Calumet City, IL., East St. Louis, IL., New Haven, CT., Fayetteville, N.C., Fort Worth, TX., Spokane, WA., Seattle, WA., Newburgh, N.Y., Ferguson, MO., Baltimore, MD., and numerous other cities in which CRS has worked over the past several years.

These funds will be used to research the issue in which guidance is needed in the cities served under the initiative, to have subject matter experts conduct a needed number of site visits per city to develop and provide training and/or technical assistance, and to research and develop resulting white papers for other cities facing similar organizational change needs.

### **Impact on Performance**

Approximately 75% percent of CRS cases stem from instances where the real or perceived actions of a local police or sheriff's department resulted in conflict, or their intervention is required to effectively resolve a conflict. CRS is highly effective in addressing these conflicts and reducing the potential for initial violence. While engaging in the conciliation process it is often determined that the need for sustainable change must be anchored through self-implemented organizational changes within the local law enforcement agency. Moreover, it is not uncommon for there to be an understanding and willingness on the part of local law enforcement to drive internal changes that would prevent future conflicts. It is also not uncommon for the local department, particularly in the case of mid-sized and small departments, to need expert guidance to affect the needed change rapidly.

This initiative will further the Department's mission to ensure public safety and to ensure fair and impartial administration of justice for all Americans. CRS will be responsible for facilitating aspects of the initiative related to in-depth community engagements that support the Attorney General's FY17 funding priorities:



- **Enhancing Public Safety:** Strengthen relationships with the communities we serve and enhance our law enforcement capabilities.

*The establishment, refinement, and reinforcing of critical and progressive community policing practices that will result in communities where they are immediately needed to prevent violence and protect property is central to strengthening police and community relationships as prescribed under this funding priority.*

- **Vulnerable People:** Protect the civil and constitutional rights of all Americans, particularly the most vulnerable members of society.

*The outreach, training, and technical assistance that shall be offered by CRS under this initiative supports the ability of law enforcement agencies engaged in intense and volatile conflicts to quickly develop and begin building the capacity to protect citizens civil and constitutional rights.*



**Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
			N/A				200				200

Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
25.2 Contractual Services	600		600	0	0
Total Non- Personnel	600		600	0	0

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Current Services	0	0	0	0	200	200	N/A	N/A
Increases	0	0	0	0	600	600	0	0
Grand Total	0	0	0	0	800	800	N/A	N/A



**Item Name:** **Research and Training Development Initiative**

**Budget Decision Unit(s):** Conflict Resolution and Violence Prevention Activities

**Strategic Goal(s) & Objective(s):** **Strategic Objective 2.5:** Promote and Protect Americans' Civil Rights

**Organizational Program:** Community Relations Service

**Component Ranking of Item:** 3 of 3

**Program Increase:** Positions   2   Atty   0   FTE   2   Dollars  \$1,155,000 

### **Description of Item**

CRS is requesting an enhancement of \$1,155,000 to support a program manager, sociologist, and research and training development resources to successfully identify conflict resolution approaches and to improve communication with communities and the stakeholders they serve. The funding will be used to procure contractual services to research and develop new trainings in the area of CRS' jurisdictions; train CRS staff in delivering the newly developed trainings; develop accompanying training resources (training and subject matter videos, podcasts, online conciliation tools) that can be used remotely by communities that CRS cannot directly engage due to staffing/travel limitations; oversee the development and coordination of these new trainings and products and to design, collect, analyze, report and disseminate data on CRS initiatives, services and trainings. Additionally, the funds will be used to bolster and update several existing CRS training programs that have proven effective over the years.

The Sociologist will conduct social science research and analysis in CRS cases to evaluate performance measurements, CRS' service effectiveness, and sustainability of CRS services provided to the community, and inform the development of CRS training and conciliation resources. Additionally, this position will lead CRS' efforts to conduct digital and social media research that maps public discourse and potential hotspots in advance of overblown tensions.

The Program Manager will oversee the development of new trainings and the training development provider, as well as refine existing trainings and establish and monitor training effectiveness measures.

It should be noted that CRS trainings represent a significant portion of the component's conciliation process in communities. It is often easier to get parties in conflict together and talking about concerns under the auspices of training than it is to have them directly addresses divisive and emotional matters. In short, CRS trainings are typically the precursor to mediation, or a part of the broader array of conciliation services initially provided in communities.



### **Justification**

CRS continues to be a resource for communities in crisis. However, responding to the complex issues that arise under the components jurisdictions of race, color, national origin and hate crimes (gender, gender identity, sexual orientation, religion, and disability) requires training and technical assistance resources that are evidenced-based and reflect current perspectives in these areas and their intersection with contemporary issues that result in conflict.

A 2014 Pew Research Center survey confirms the racial divide that exists in the communities, especially after the shooting of Michael Brown in Ferguson. In results from a survey, after the Ferguson shooting, 80% of blacks expressed that the incidents raised important issues about race, compared with 37% of whites. In a survey conducted seven days later, blacks expressed far less confidence than whites in local police to treat both races equally. About 71% of whites polled expressed a great deal or fair amount of confidence in local police to treat blacks and whites equally, compared with just 36% of blacks.<sup>1</sup> In addition, about 52% of blacks surveyed expected relations between local police and minorities to worsen within the year. This deep sense of mistrust directly affects police community relations nationwide and plays a significant role in CRS' work.

This enhancement will help CRS meet this need by staffing a program manager and a sociologist to conduct qualitative and quantitative research and analysis that will provide CRS with a product used to analyze community conflict, tension or incidents and the sustainable effects CRS training has on these events. Through data collection, CRS will be able to establish a baseline and then develop case informed responses geared towards improving and maximizing crisis intervention and conflict resolution training.

Many of CRS' training materials are not updated and do not readily address and reflect current challenges causing conflicts in communities. While the components jurisdictions are specific and well defined, conflicts that arise within these jurisdictional areas do not exist independent of precipitating issues that also become critical to the conflict resolution process. Therefore, for CRS' dispute resolution and training materials to be effective, they must also reflect precipitating issues. For example, when supporting the efforts of a community to resolve a racial conflict stemming from perceptions of bias policing, CRS cannot only address race. Rather, the component must address the intersection of race and contemporary policing issues. This means that CRS's materials must reflect contemporary concepts such as police legitimacy, impartial bias, procedural justice, community policing, and current philosophies on use of force. Currently, our training and dispute resolution materials do not reflect these issues or the evidence-based perspectives related to them.

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<sup>1</sup> <http://www.pewresearch.org/fact-tank/2015/04/28/blacks-whites-police/>



**Impact on Performance**

Resources dedicated to research and development will enable CRS to address more communities' needs and demands, as CRS is the only federal agency exclusively dedicated to assisting state and local units of governments, private and public organizations, community groups, and other federal agencies with preventing and resolving racial and ethnic tensions, conflicts, and civil disorders. Historically, CRS has played an integral role concerning: community-police relations, conflicts over excessive use of force, civil unrest, and tension over hate incidents or other crimes. These additional positions will allow CRS to fulfill its statutory mandate pursuant to Title X of the Civil Rights Act of 1964 as well as its mandate pursuant to the Shepard and Byrd, Jr. Hate Crimes Prevention Act (HCPA).



**Base Funding**

FY 2015 Enacted				FY 2016 President's Budget				FY 2017 Current Services			
Pos	agt/ atty	FT E	\$(000)	Pos	agt/ atty	FTE	\$(000)	Pos	agt/ atty	FTE	\$(000)
			N/A				N/A				N/A

Type of Position/Series	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
Program Manager GS-12	84	1	84	108	0
Research and Development Sociologist	104	1	104	109	0
Total	188	2	188	217	0

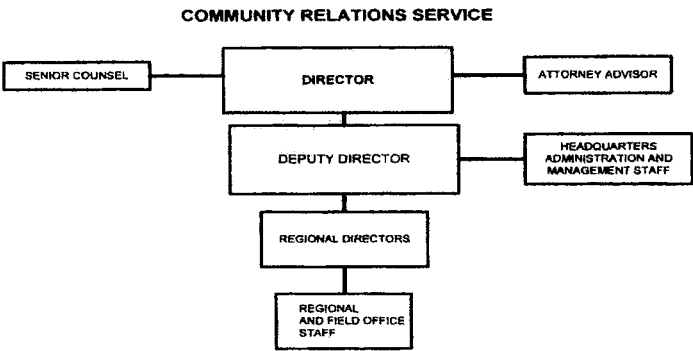
Non-Personnel Item	Unit Cost	Quantity	FY 2017 Request (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)	FY 2019 Net Annualization (change from 2018) (\$000)
21.0 Travel			51	0	0
25.2 Contractual Services			916	0	0
Total Non- Personnel			967	0	0

**Total Request for this Item**

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2017 Net Annualization (change from 2016) (\$000)	FY 2018 Net Annualization (change from 2017) (\$000)
Current Services	0	0	0	0	0	0	0	0
Increase s	2	0	1	188	967	1,155	217	0
Grand Total	2	0	1	188	967	1,155	217	0



A: Organizational Chart



Approved by  Date 5/16/13  
ERIC M. HOLDER, JR.  
Attorney General



B. Summary of Requirements

**Summary of Requirements**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

	FY 2017 Request	
	Direct Pos.	Estimate FTE Amount
<b>2015 Enacted <sup>1/</sup></b>	<b>56</b>	<b>49</b>
<b>Total 2015 Enacted</b>	<b>56</b>	<b>49</b>
<b>2016 Enacted</b>	<b>74</b>	<b>58</b>
<b>Base Adjustments</b>		
Pay and Benefits	0	4
Domestic Rent and Facilities	0	25
<b>Total Base Adjustments</b>	<b>0</b>	<b>4</b>
<b>Total Technical and Base Adjustments</b>	<b>0</b>	<b>4</b>
<b>2017 Current Services</b>	<b>74</b>	<b>62</b>
<b>Program Changes</b>		
Increases:		
Law Enforcement Community Reconciliation Initiative	13	7
Law Enforcement Organizational Change Initiative	0	0
Research and Training Development	2	2
Subtotal, Increases	15	9
<b>Total Program Changes</b>	<b>15</b>	<b>9</b>
<b>2017 Total Request</b>	<b>89</b>	<b>71</b>
<b>2016 - 2017 Total Change</b>	<b>15</b>	<b>13</b>

<sup>1/</sup> FY 2015 FTE is actual



**Summary of Requirements**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

1066

Program Activity	FY 2015 Appropriation			FY 2016 Enacted			FY 2017 Technical and Base Adjustments			FY 2017 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Conflict Resolution and Violence	56	49	12,250	74	58	14,446	0	4	1,113	74	62	15,559
Prevention - Program Operations												
Balance Rescission			0			0			0			0
<b>Total Direct with Rescission</b>	<b>56</b>	<b>49</b>	<b>12,250</b>	<b>74</b>	<b>58</b>	<b>14,446</b>	<b>0</b>	<b>4</b>	<b>1,113</b>	<b>74</b>	<b>62</b>	<b>15,559</b>
Reimbursable FTE		0			0			0			0	
<b>Total Direct and Reimb. FTE</b>	<b>56</b>	<b>49</b>			<b>58</b>			<b>4</b>			<b>62</b>	
Other FTE:												
LEAP		0			0			0			0	
Overtime		0			0			0			0	
<b>Grand Total, FTE</b>		<b>49</b>			<b>58</b>			<b>4</b>			<b>62</b>	

Program Activity	2017 Increases			2017 Offsets			2017 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Conflict Resolution and Violence	15	9	3,431	0	0	0	89	71	18,990
Prevention - Program Operations									
Balance Rescission		9	3,431	0	0	0	89	71	18,990
<b>Total Direct with Rescission</b>	<b>15</b>	<b>9</b>	<b>3,431</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>89</b>	<b>71</b>	<b>18,990</b>
Reimbursable FTE		0			0			0	
<b>Total Direct and Reimb. FTE</b>	<b>15</b>	<b>9</b>			<b>0</b>			<b>71</b>	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			0	
<b>Grand Total, FTE</b>		<b>9</b>			<b>0</b>			<b>71</b>	



# FY 2017 Program Increases/Offsets by Decision Unit

Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Conflict Resolution and Violence Prevention - Program Operations			Total Increases		
		Direct Pos.	Agt./Atty. Est. FTE	Amount	Direct Pos.	Agt./Atty. Est. FTE	Amount
Law Enforcement Community Reconciliation Initiative		13	0	7	13	0	7
Law Enforcement Organizational Change Initiative		0	0	0	0	0	0
Research and Training Development		2	0	2	2	0	2
<b>Total Program Increases</b>		<b>15</b>	<b>0</b>	<b>9</b>	<b>15</b>	<b>0</b>	<b>9</b>

Program Offsets	Location of Description by Program Activity	Conflict Resolution and Violence Prevention - Program Operations			Total Offsets		
		Direct Pos.	Agt./Atty. Est. FTE	Amount	Direct Pos.	Agt./Atty. Est. FTE	Amount
No Program Offsets							
<b>Total Program Offsets</b>							



**Resources by Department of Justice Strategic Goal and Objective**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

Strategic Goal and Strategic Objective	FY 2016 Appropriation Enacted			FY 2016 Enacted			FY 2017 Current Services			FY 2017 Increases			FY 2017 Offsets			FY 2017 Total Request		
	Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount		Direct & Reimb FTE	Direct Amount	
Goal 2 Prevent crime, protect the rights of the American people, and enforce federal law																		
2.5 Promote and protect American civil rights by preventing and prosecuting discriminatory practices.	49	12,250		58	14,446		62	15,559		9	3,431		0	0		71	18,990	
Subtotal Goal 2	49	12,250		58	14,446		62	15,559		9	3,431		0	0		71	18,990	
TOTAL	49	12,250		58	14,446		62	15,559		9	3,431		0	0		71	18,990	



### Exhibit E. Justifications for Technical and Base Adjustments



**Justifications for Technical and Base Adjustments**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<b>Domestic Rent and Facilities</b>			
<b>1 <u>GSA Rent</u></b> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$19,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective FY 2017 for each building currently occupied by Department of Justice components, as well as the costs for new space to be occupied.	0	0	19
<b>2 <u>Guard Service</u></b> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$6,000 is required to meet these commitments.	0	0	6
<b>Subtotal, Domestic Rent and Facilities</b>	0	0	25
<b>TOTAL DIRECT TECHNICAL AND BASE ADJUSTMENTS</b>	0	4	1,113



**Crosswalk of 2015 Availability**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2015 Appropriation			Reprogramming/Transfers			Carryover		Recoveries/ Refunds Amount	FY 2015 Availability		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount			Direct Pos.	Actual FTE	Amount
Conflict Resolution and Violence	56	49	12,250	0	0	11	0	0	0	56	49	12,261
Prevention - Program Operations												
Total Direct	56	49	12,250	0	0	11	0	0	0	56	49	12,261
Balance Rescission			0				0	0	0			0
Total Direct with Rescission			12,250			11	0	0	0			12,261
Reimbursable FTE		0			0						0	
Total Direct and Reimb. FTE		49			0						49	
Other FTE:												
LEAP FTE		0			0						0	
Overtime		0			0						0	
Grand Total, FTE		49			0						49	

**Reprogramming/Transfers:**

CRS received \$16K from DOJ ITSS/CIO to fund a Microsoft migration project. CRS transferred \$5K to JIST for cyber security.

**Carryover:**

**Recoveries/Refunds:**



**Crosswalk of 2016 Availability**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

Program Activity	FY 2016 Enacted			Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	FY 2016 Availability		
	Direct Pos.	Est FTE	Amount	Direct Pos.	Est. FTE	Amount			Direct Pos.	Est. FTE	Amount
Conflict Resolution and Violence Prevention - Program Operations	74	58	14,446	0	0	0	0	0	74	58	14,446
<b>Total Direct</b>	<b>74</b>	<b>58</b>	<b>14,446</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>74</b>	<b>58</b>	<b>14,446</b>
Balance Rescission			0			0	0	0			0
Total Direct with Rescission			14,446			0	0	0			14,446
Reimbursable FTE		0			0					0	
Total Direct and Reimb FTE		58			0					58	
Other FTE:											
LEAP FTE		0			0					0	
Overtime		0			0					0	
Grand Total FTE		58			0					58	

Reprogramming/Transfers:

Carryover:

Recoveries/Refunds:



Summary of Reimbursable Resources

Community Relations Service

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2015 Actual			2018 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
Department of Justice - ITSS	0	0	0	16	0	0	0	0	0	0	0
Budgetary Resources	0	0	0	16	0	0	0	0	0	0	0

Obligations by Program Activity	2015 Actual			2018 Estimate			2017 Request			Increase/Decrease	
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE
Conflict Resolution and Violence Prevention - Program Operations	0	0	0	16	0	0	0	0	0	0	0
Budgetary Resources	0	0	0	16	0	0	0	0	0	0	0



**Detail of Permanent Positions by Category**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

1074



Financial Analysis of Program Changes  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

Grades	Conflict Resolution and Violence Prevention - Program Operations		Program Decreases		Total Program Changes	
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-14	1	104	0	0	1	104
GS-13	1	84	0	0	1	84
GS-12	3	282	0	0	3	282
GS-11	10	756	0	0	10	756
	15	1,206	0	0	15	1,206
Total Positions and Annual Amount						
Level (I)	-6	-374	0	0	-6	-374
11.0 - Other personnel compensation	0	0	0	0	0	0
Total FTEs and Personnel Compensation	9	892	0	0	9	892
12.1 - Civilian personnel benefits	0	374	0	0	0	374
21.0 - Travel and transportation of persons	0	336	0	0	0	336
25.2 - Other services from non-federal sources	0	1,869	0	0	0	1,869
Total Program Change Requests	9	3,431	0	0	9	3,431



**Summary of Requirements by Object Class**  
Community Relations Service  
Salaries and Expenses  
(Dollars in Thousands)

K. Summary of Requirements by Object Class

Object Class	FY 2015 Actual		FY 2016 Enacted		FY 2017 Request		Increase/Decrease	
	Act.	FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	FTE
11.1 - Full-time permanent	49		4,568	58	7,133	71	7,133	13
11.3 - Other than full-time permanent	0		248	0	157	0	157	0
11.5 - Other personnel compensation	0		59	0	49	0	49	0
Overtime	0		0	0	0	0	0	0
Other Compensation	0		0	0	0	0	0	0
11.8 - Special personal services payments	0		0	0	0	0	0	0
<b>Total</b>	<b>49</b>		<b>4,875</b>	<b>58</b>	<b>7,339</b>	<b>71</b>	<b>7,339</b>	<b>13</b>
<b>Other Object Classes</b>								<b>1,586</b>
12.1 - Civilian personnel benefits			1,551		1,883		2,591	0
21.0 - Travel and transportation of persons			740		1,004		1,343	0
22.0 - Transportation of things			63		52		52	0
23.1 - Rental payments to GSA			1,567		1,639		1,658	0
23.2 - Rental payments to others			105		106		106	0
23.3 - Communications, utilities, and miscellaneous charges			305		390		390	0
24.0 - Printing and reproduction			5		2		2	0
25.1 - Advisory and assistance services			1,182		1,022		1,022	0
25.2 - Other services from non-federal sources			483		1,293		3,179	0
25.3 - Other goods and services from federal sources			542		1,021		1,027	0
25.4 - Operation and maintenance of facilities			117		2		2	0
25.6 - Medical care			6		9		9	0
25.7 - Operation and maintenance of equipment			43		54		54	0
26.0 - Supplies and materials			542		71		71	0
31.0 - Equipment			10		145		145	0
<b>Total Obligations</b>			<b>12,136</b>		<b>14,446</b>		<b>18,990</b>	<b>0</b>
<b>Net of:</b>								<b>4,544</b>
Unobligated Balance, Start-of-Year			0		0		0	0
Transfers/Reprogramming			5		0		0	0
Recoveries/Refunds			0		0		0	0
Balance Rescission			0		0		0	0
Unobligated End-of-Year, Available			0		0		0	0
Unobligated End-of-Year, Expiring			109		0		0	0
<b>Total Direct Requirements</b>			<b>12,250</b>		<b>14,446</b>		<b>18,990</b>	<b>4,544</b>
<b>Reimbursable FTE</b>								
Full-Time Permanent	0			0		0		0







