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COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

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Good morning Chairman Mikulski, Ranking Member Shelby, and Members of the Subcommittee. It is my pleasure to appear before you today to present the President's FY 2009 Budget for the U.S. Department of Justice (Department). Before I begin, I would like to thank you for your continued support of the Department's mission and your recognition of the important work that we do.

The Department is charged with defending the interests of the United States according to the law; ensuring public safety against threats both foreign and domestic; seeking just punishment for lawbreakers; assisting our state and local partners; and ensuring fair and impartial administration of justice for all Americans. The Department's ability to pursue this mission is dependent on the funding that supports our operations and allows us to enhance our efforts in the areas that need it.

The President's Budget request for the Department in FY 2009 is \$22.7 billion, which will allow us to accomplish our broad-based mission and provide a particular focus on the following critical areas: national security, violent crime, immigration and border security, and public corruption. More specifically, the President's FY 2009 Budget request:

- reflects a 6% total increase over the FY 2008 enacted budget for law enforcement and prosecution programs;
- increases the resources dedicated to national security and counterterrorism efforts by \$492.7 million;
- enhances the Department's capacity to address violent crime through a strategy to target grant funding to the places and problems that need it most;
- dedicates an additional \$100 million for the Southwest Border Enforcement Initiative to enforce federal laws, including immigration laws, along the border; and
- continues the Department's focus on prosecuting public corruption.

During a time of limited resources and tough decisions, I am grateful that the Committee continues to support the Department's mission and these priorities.

Understanding that our time together is limited, my testimony today highlights key budget priorities that support our efforts to enhance national security and protect our homeland. I will also discuss the Department's proposal to target state and local funding in a way that supports these priorities and leverages our limited resources.

First, since the devastating attacks of September 11, 2001, the Department has mobilized its resources to help protect the Nation. In that time, this Committee has strongly and repeatedly shown its support of the Department's efforts in the war against terror. The President's FY 2009 proposal asks this Committee to continue its support by providing the Department with the resources necessary to expand and improve the counterterrorism programs of the National Security Division and the Federal Bureau of Investigation.

Second, the budget seeks funds to improve the Department's ability to combat crime along the Southwest Border. This budget request takes into account the full range of essential resources, personnel, and infrastructure required to address illegal immigration, drug trafficking, and gun smuggling across that border.

Third, the budget requests funds to support essential federal detention and incarceration programs that provide the infrastructure necessary for the Department's law enforcement personnel and prosecutors to carry out their responsibilities. As programs such as Project Safe Neighborhoods and the Southwest Border Enforcement Initiative investigate and prosecute dangerous criminals, the Department must be ready to segregate those individuals from the general population in a safe and secure environment.

Finally, the budget reflects the Department's strategy to work in partnership with state, local, and tribal authorities and target funding to address the most significant needs in those communities. It is our collective obligation to ensure that our resources — whether expended on federal efforts or in support of our state and local partners — are used wisely and in a way calculated to achieve the most significant impact.

I. National Security: Protecting the American People by Preventing Terrorist Acts

As I testified during the Department's oversight hearings earlier this year, since the terrorist attacks of September 11, 2001, the first priority of the Justice Department has been to protect Americans from the threat of international terrorism. All aspects of what the Department does, from budget, to allocation of resources, to policy development and legislative priorities, must continue to reflect this critical aspect of our mission and the reality of the world in which we live. According to the National Intelligence Estimate released last summer, al Qaeda has "protected or regenerated key elements of its Homeland attack capability" and continues to look for "prominent....targets with the goal of producing mass casualties...." As a result, the Department must continue to work aggressively to investigate and prosecute terrorists, and we must do so effectively and efficiently. To that end, the Department has expended substantial time, energy, and

resources in improving and streamlining the organization and operations of its counterterrorism assets. In just two years, the Department has created and brought into full operation the National Security Division (NSD), which is dedicated to centralizing and improving the Department's ability to carry out its primary national security functions. Similarly, the FBI has dramatically improved and, in some instances, completely recreated its counterterrorism and intelligence collection activities. These improved efforts have allowed the Department to utilize its resources and its expertise to investigate, thwart, and prosecute terrorist conspiracies more swiftly and more effectively.

The importance of the Department's national security efforts is reflected in the President's FY 2009 Budget, which requests an additional \$492.7 million to improve the Nation's counterterrorism capabilities to investigate, identify, track, and dismantle terrorist cells operating in the United States and abroad. Although these funds are allocated for numerous programs and policies, I would like to discuss three particular priorities in the national security realm: (1) providing the National Security Division with the resources it needs to continue its successful and critical operations; (2) providing the FBI with necessary funding; and (3) creating a critical wireless network for law enforcement operations.

A. National Security Division

The Department created the National Security Division (NSD) in 2006 to combat terrorism and other national security threats more effectively. NSD has been critical to coordinating the Department's law enforcement, prosecution, and intelligence functions in the fight against terror. As a result of the nature of its work, the Division's successes are not always public. But some efforts are, for example the trial and conviction of Jose Padilla in the Southern District of Florida, and the indictment and conviction of several individuals who sought to profit from illegally providing sensitive national security information to China. To ensure the continued viability of this important contributor to the Department's counterterrorism efforts, the President's FY 2009 budget requests \$84 million in total resources to maintain the operations of the National Security Division.

B. Federal Bureau of Investigation

The men and women of the FBI have provided a visible and vital role in protecting the Nation's security. Since the attacks of September 2001, the FBI has implemented a comprehensive plan that has overhauled the FBI's counterterrorism operations, expanded its intelligence capabilities, begun to modernize its technology, and improved its coordination with federal, state, local, and tribal partners. The more than 30,000 agents and professional staff of the FBI work tirelessly to protect this country. They do so from 56 domestic field offices and 60 additional locations around the globe. In recognition of the broad scope of the FBI's role in protecting the American people, the FY 2009 President's Budget requests \$7.1 billion for the FBI, an increase of 6.77 percent. An investment of \$447.4 million will support the FBI's intelligence and counterterrorism programs, improve surveillance capabilities, guard against and respond to incidents

involving weapons of mass destruction, protect the security of the Nation's cyber systems, and add 280 new agents and 271 new intelligence analysts.

Investigations, intelligence, and surveillance are the key tools in the fight against terrorism. The FY 2009 President's Budget recognizes the importance of the investigative and intelligence arms of the FBI with an enhancement of \$235.5 million slated for operations focused on identifying and analyzing national security and criminal threats. This amount includes resources for national security investigations; cyber security detection and prevention; and foreign intelligence gathering and operations. To meet the expanding demands to produce and use intelligence to protect the Nation from threats, an additional \$43.4 million will be used to strengthen the FBI's professional workforce to ensure that it has the critical skills, competencies, and training to fulfill the FBI's mission. To support surveillance technology, an additional \$88.5 million is requested to sustain operational requirements, including physical and electronic surveillance and collection processing exploitation, analysis and reporting.

Promoting partnerships both here and abroad is critical to the success of many initiatives. Since September 11, the Department of Homeland Security has supported the establishment of approximately 35 operational fusion centers. These fusion centers foster information-sharing between local, state, and federal partners to identify and assess emerging threats to the United States. The Department of Justice has been an integral partner in these efforts and has dedicated personnel and resources to the fusion centers. Together, we have been able to leverage existing information-sharing tools and resources. The FBI request includes funds to provide secure connectivity to fusion centers. Further, our partners in the war against terror extend beyond our borders and enhancements totaling \$5.7 million will not only provide resources for the fusion center program, but also to expand the Legal Attaché program overseas.

Finally, the FY 2009 budget seeks additional funds to improve the FBI National Academy, one of the premier training facilities for law enforcement. An enhancement of \$9.8 million is requested to augment architectural and engineering services, construct roads, and install a new substation to handle an increase in electrical power loads. These improvements will address the training facility's maintenance issues and allow the FBI Academy to focus on its core responsibility of training.

C. Improved Communications Capabilities

All of our law enforcement components – especially those involved in national security efforts – need wireless communication capabilities that will enable them to fulfill their responsibilities. The current DOJ radio systems used nationwide are, on average, between 15 and 20 years old. We must modernize this technology, even though doing so is complicated and expensive. When I visited the border in January, I was shown how smugglers have better radio equipment than we provide to our federal agents. For example, these criminals have deployed car-battery operated surveillance equipment to listen to, and track the movement of, our law enforcement agents. Such practices put the lives of our brave men and women in great danger.

To date, our funding has essentially just repaired and maintained our legacy systems. The FY 2009 budget requests \$43.9 million for the creation of an integrated wireless network (IWN) in the Washington, D.C. area. This network will allow the Department to begin modernizing communication technology so that we can effectively and securely communicate across the law enforcement community. The IWN will provide new equipment, better security, an improved range, and better interoperability among the many jurisdictions that protect the National Capital area. The Department intends to implement the IWN on a nationwide basis over the next several years.

II. Southwest Border Initiative

Enforcing the Nation's immigration laws and reducing violent crime are two of the Department's significant priorities. Earlier this year, I had the opportunity to meet some of the prosecutors and law enforcement officers who work every day to secure our borders. For those who work along the Southwest Border, their job is particularly challenging. In addition to functioning as the point of entry of many illegal immigrants coming into this country, the Southwest Border is an access point for smuggling drugs into, and guns out of, the United States.

Reducing crime along the Southwest Border requires a wide variety of personnel, resources, and infrastructure, spanning a number of Department components, including the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the U.S. Marshals Service (USMS), the Drug Enforcement Administration (DEA), and the U.S. Attorney's Offices (USAO). Investigators and law enforcement personnel are necessary to police the borders and identify and prevent criminal activity, to detain those who are arrested, and to prosecute those who have violated the law. Moreover, resources are needed for the immigration courts that hear a substantial percentage of the matters arising out of the Southwest Border. Each element of this chain is essential to preventing crime along the Border. Without adequate funding for all of these activities, the other activities will suffer. In recognition of the continuing importance of securing our Southwest Border, the President has requested an enhancement of \$100 million for the Department's enforcement and prosecution efforts.

To combat criminal activity on the Southwest Border, the Department will invest resources to prosecute criminals and immigration violators as well as to combat drug and gun traffickers and gangs. The Department is requesting an enhancement of \$20.4 million for the DEA that includes funding for 30 additional agents. DEA has long played a central role in the counternarcotics strategy to combat the violent drug trafficking organizations along our border with Mexico. DEA's strong partnership with Mexico has led to success in drug seizures, money laundering, arrests, and extraditions. This budget request will allow DEA to add investigative and support personnel in locations in close proximity to the Southwest Border for purposes of targeted enforcement operations in the arrival zone. It will also provide funding to support two additional foreign-deployed

Advisory and Support Teams (FAST) and Operation All-Inclusive, the enforcement arm of DEA's Drug Flow Attack Strategy.

The President's Budget also requests an enhancement of nearly a million dollars for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to address firearms trafficking on the Southwest Border. The impact of firearms related violence has already been felt on both sides of the border in Laredo, Texas and Nuevo Laredo, Mexico. To address such threats, 12 positions are requested to expand ATF's ability to provide oversight in the region and to implement a focused inspection program to identify straw purchasers, traffickers, and non-compliant licensees that are often the source of illegal firearms used by violent criminals. ATF agents have reported that weapons are flooding into Mexico each week from the United States, with a notable percentage linked to drug trafficking organizations. This enhancement to ATF's budget will help control the current illegal firearms trafficking along the Southwest Border.

Increased enforcement operations will likely lead to an increased number of detainees. More detainees means a greater burden will be placed on the U.S. Marshals Service, which apprehends fugitives, transports and manages prisoners, protects witnesses, serves court documents, manages seized assets, and protects federal judges and courts. In just one fiscal year, from FY 2006 to FY 2007, the U.S. Marshals Service prisoner operations along the Southwest Border increased by 9 percent, compared to a 2 percent increase in the other districts. The President's FY 2009 Budget requests an additional \$12.7 million for 79 new positions, including 58 Deputy U.S. Marshals to handle the increased workload expected on the Southwest Border.

An increase in detainees also means an added responsibility for the Office of the Federal Detention Trustee (OFDT) to provide more detainees with housing, medical and hospital care, guard services, transportation and other detention-related services. It is anticipated that in FY 2009 OFDT will house more than 200,000 detainees in both Federal and non-federal facilities. To accommodate this anticipated increase, the President's Budget requests an additional \$37.6 million for OFDT.

Another \$10 million in enhancements will provide much needed IT equipment for the Executive Office for Immigration and Review (EOIR)'s immigration courts. This new IT equipment will improve court hearing records and will support the Immigration Review Information Exchange System, which will allow mission critical information to be shared with the Department of Homeland Security and other federal agencies. This new digital recording system itself will significantly improve the audio quality of immigration court hearings and will also allow the immigration judges to operate the system through desk-top computers.

With an increase in detainees and immigration court hearings, comes the need for additional prosecutors. To meet this need, the President's FY 2009 Budget requests an additional \$8.4 million for the U.S. Attorneys to support 83 new positions, including 50 Assistant U.S. Attorneys who will prosecute cases along the Southwest Border. Prosecutors will be focused on human smuggling, drug smuggling, homicide, robbery,

immigration, hostage taking, money laundering, and immigration violation cases. To support the additional attorneys, paralegals will also be hired to help keep pace with the mounting workload which is expected to increase by 200 percent over the 12,000 felony cases filed in FY 2007. This increase is attributed to more Border Patrol agents who are expected to generate an estimated 24,000 criminal immigration cases during the next two years.

The remaining Department enhancements for the Southwest Border Initiative includes support for the Criminal Division's efforts to reduce gang violence; the Office of Justice Programs to provide funding for local prosecutor offices in the four Border States (California, Texas, Arizona, and New Mexico); and the Organized Crime Drug Enforcement Task Force to improve its IT infrastructure and increase attorney resources along the Southwest Border.

III. Supporting Essential Federal Detention and Incarceration Programs

Since the beginning of this Administration, the Department has successfully increased its enforcement efforts in several key areas. These enhanced enforcement efforts have led to significant increases in the federal detention and prison populations. For example, through the Project Safe Neighborhoods (PSN) initiative, the Department has doubled the number of prosecutions for federal firearms crimes over the past seven years. As a result of programs such as PSN, the Federal government has taken on defendants who would have been prosecuted and imprisoned by state and local authorities, resulting in harsher penalties. To enable the Department to continue its focus on programs such as PSN, the Department requires additional funds to support adequate infrastructure to hold those who are arrested and successfully prosecuted. The President has requested \$67.1 million for the FY 2009 budget in order to respond to this need.

I would also like to take the time to thank the Subcommittee for working with the Department so quickly to address the Bureau of Prisons' FY 2008 funding needs. There is still more work to be done, and your continued support is appreciated.

Last fiscal year, 7,436 inmates were added to a Federal Prison System that was already above rated capacity. As a result, the Department needs to increase prison capacity to house the growing prison population. The President's FY 2009 Budget requests an enhancement of \$50 million and 16 positions to add 4,000 beds in contract facilities to house low security inmates in FY 2009.

The Bureau of Prisons (BOP) confines offenders in controlled environments of prisons and community-based facilities to help protect society from those who violate the law. As a result of tighter enforcement along the Southwest Border and an increase in conviction rates, BOP estimates that more than 13,000 inmates will be added to the federal prison system between fiscal year 2008 and fiscal year 2009. To prepare and care for these new inmates, an additional \$17.1 million is requested to meet the managed costs of providing security, food, medical care, clothing, utilities, unit management, education, records and maintenance. Health care costs alone have risen from \$9.16 per inmate per

day in FY 2001 to \$11.91 in FY 2007 for the more than 200,000 inmates in the Federal Prison System system, which includes 114 minimum, low, medium, and high security facilities.

The Request also includes additional funds to recruit, train, and employ essential staff for these facilities. Research has shown that when the inmate-to-staff ratio increases so does the number of serious assaults. The current BOP inmate population exceeds capacity by 37 percent. While BOP has increased the number of beds and improved architectural designs in newer facilities to take advantage of improved technology and security measures, this has not been enough to keep pace with the increasing population. In addition, the ratio of staff to inmates keeps widening. As a result, filling staff positions that have direct contact with inmates is a critical priority.

It is not only the inmate population that has increased, but also the number of presentenced detainees housed in detention facilities. The President's FY 2009 Budget, as part of the Southwest Border Initiative, requests \$37.6 million for the Office of the Federal Detention Trustee (OFDT) to handle this increase of pre-trial detainees.

IV. Supporting our State, Local, and Tribal Partners in the Fight Against Crime

The Nation's safety depends on the combined work of law enforcement personnel acting at the federal, state, and local levels. The Department significantly values the partnerships it has forged with state and local authorities to investigate and prosecute serious crimes, including matters of national security. We also understand that these partnerships, in some cases, require additional funding to support local participation.

In an effort to utilize its resources and target them effectively to the areas of greatest need, the Department proposes consolidating 70 grant programs into four new competitive grant programs: (1) Violent Crime Reduction Partnership Initiative; (2) Byrne Public Safety and Protection Program; (3) Child Safety and Juvenile Justice Program; and (4) Violence Against Women Grants. Through these combined grant programs, more than \$1 billion will be available in discretionary grant assistance for state, local, and tribal governments.

The President's Budget requests \$200 million to fund the Violent Crime Reduction Partnership Initiative to provide necessary funding to those communities who need assistance in responding to violent crime. Many communities continue to struggle with violent crime. To assist our local partners, last fall the Department invested \$75 million in 106 jurisdictions to combat violent crime through multi-agency and multi-jurisdictional partnerships that include at least one federal law enforcement agency. The flexibility to meet the needs of those 106 communities came from the 2007 Joint Resolution, which gave the Department discretion in administering crime fighting funds.

In order to build on the success of that \$75 million investment, the President's FY 2009 Budget requests \$200 million for the Violent Crime Reduction Partnership

Initiative. The Initiative will address violent crime through multi-jurisdictional law enforcement partnerships like those funded this past fall and will use competitive grants to combat a jurisdiction's specific violent crime problems. The program is designed to address crimes that range from drug trafficking to gang activity and to address the crime problems of both large and small communities. In addition to providing necessary funds to those localities that need assistance, the program is designed to retain the flexibility to adjust to changing trends in criminal behavior.

In FY 2009, the President has requested \$200 million for a competitive grant program entitled the "Byrne Public Safety and Protection Program." This grant program will address several critical concerns that confront many law enforcement agencies and the jurisdictions they serve, including reducing violent crime; addressing substance abuse; enhancing law enforcement information sharing efforts; improving the capacity of law enforcement to use forensic evidence and reduce the DNA evidence backlogs; addressing human trafficking; expanding prisoner re-entry initiatives; and improving services to victims of crime. Both government and non-government entities will be eligible to apply for the FY 2009 Byrne program.

With the advent of new technology, we have seen a devastating increase in the number of children that are exploited through the Internet. In order to help address this problem, the Department is proposing the consolidation of several juvenile justice and exploited children programs into one new grant program entitled the "Child Safety and Juvenile Justice Program" for which the President has requested \$185 million. This new grant program will be both flexible and competitive and will focus on reducing incidents of child exploitation and abuse through cybercrimes, improving juvenile justice outcomes, and addressing school safety needs.

The fourth new program is entitled "Violence Against Women Grants" and \$280 million has been requested for this initiative. Like the other grant programs, this one also consolidates existing programs to allow grantees to request funding through a single application to support activities previously authorized under multiple grant programs. Whereas the other three grant programs I mentioned will be administered by the Office of Justice Programs, this one will be administered through the Office on Violence Against Women (OVW). This new grant program will continue to emphasize OVW's focus on enhancing collaboration, measuring effectiveness, and maintaining a sustainability focus related to ending domestic violence, date rape, sexual assaults, and stalking.

In addition to these four consolidated grant programs, the President has also requested funds for the Regional Information Sharing System (RISS); the Crime Victims Fund, the Bureau of Justice Statistics (BJS); and the National Institute of Justice (NIJ).

V. Conclusion

Chairman Mikulski, Senator Shelby, and Members of the Subcommittee, I want to thank you for this opportunity to present the President's FY 2009 Budget. As you know,

my tenure in the Department to date has been brief, but over the past several months my knowledge of, and respect for, the men and women who are protecting and serving this country has only grown. And it is with your continued support that they can continue to do their jobs to ensure that justice is served.

Today I have highlighted critical areas that require attention and resources so that the Department can fulfill its mission to enforce the Nation's laws and help protect national security. I hope you agree that these are worthy investments for FY 2009. As always, we are aware that there are tough decisions and challenges ahead and I look forward to working with you as we move forward.

Once again, thank you for inviting me to be here today. I would be pleased to answer any questions you may have.