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Justice Denied: Waste and Mismanagement at the Department of Justice

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**JUSTICE DENIED:
WASTE & MISMANAGEMENT
AT THE DEPARTMENT OF JUSTICE**



United States Senate
110th Congress
Office of Senator Tom Coburn, M.D., Ranking Member
Subcommittee on Federal Financial Management, Government Information,
Federal Services, and International Security

October 2008
www.coburn.senate.gov/ffm

Dear Taxpayers,

As part of my commitment to question how Washington spends your money, this is one of many in a series of oversight reports on federal agencies. I hope agencies and other congressional committees alike will welcome this oversight and work with us to help identify even more areas of waste, fraud, and abuse, as well as new ways to better prioritize our nation's limited financial resources.

America's legal greatness is supported by the Department of Justice's (DOJ) mission to ensure public safety and the fair and impartial administration of justice. As we hold ourselves and our legal system to high expectations, it is our job to continuously keep DOJ accountable to such standards. Unfortunately, in some areas, DOJ is just one of many federal agencies I believe is not properly living up to its own mission. This report highlights numerous instances of millions of taxpayer dollars thrown at duplicative programs marred by waste, abuse, and lack of accountability. If this problem is ignored, the safety of our nation will be placed further in serious peril as we continue to spend recklessly without demanding results, while failing to support programs with demonstrated and effective outcomes.

"Justice Denied" is not intended to question the hard-working employees at the Department of Justice, but instead is meant to shed light on various challenges facing the agency that should be addressed by DOJ management and congressional oversight. In light of its incredible size and extensive bureaucratic red tape, the federal government is incapable of prioritizing spending and requiring measurable results from those entrusted with billions of hard-earned tax dollars to help carry out its crucial missions. I believe that you, the American taxpayer, deserve better.

As President Lincoln said, we are a "government of the people, by the people, for the people," and to uphold that principle we need your help. As part of my ongoing effort to shine the light on the federal government, I encourage anyone with examples of government waste, fraud, or abuse to let us know about it.

To submit a tip (anonymously, if you wish) through the Internet, please visit my tip page: <http://coburn.senate.gov/ffm/>.

Or, to submit a tip by mail to my subcommittee office, please mail to:
Senator Tom Coburn
Subcommittee on Federal Financial Management,
Government Information, Federal Services, and International Security
340 Dirksen Senate Office Building
Washington, D.C. 20510

With your help, we can begin making a difference and change the way Washington works.

Sincerely,

Tom Coburn, M.D.
United States Senator

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EXECUTIVE SUMMARY

As the central agency for the enforcement of federal laws, the Department of Justice (DOJ) performs the essential duty of keeping the public safe and ensuring justice. Congress appropriates more than \$23 billion¹ annually to fully equip law enforcement and civilian services to uphold these principles.

Law enforcement personnel know that a coordinated, informed, and well-run operation is essential to success. Yet, billions of taxpayer dollars at DOJ are funneled into programs that duplicate existing government projects, lack clearly defined goals, are non-essential and/or operate without any form of measurability or accountability.

Despite the widespread budget and criminal response issues facing law enforcement units across the nation, the Department of Justice continues to mismanage and waste millions of dollars, as well as staff resources, every year on low-priority earmarks, grants, and other initiatives, including \$600 limousine rides,² camping trips,³ and helping Hollywood make movies.⁴ In addition, the Department of Justice ended the last two fiscal years with more than \$1.6 billion in unspent and unobligated funds, and ended each of the preceding five years with more than \$2.1 billion on hand. In total, this report identifies over \$10 billion in mismanaged, inefficient, duplicative, wasteful, and questionable spending at the DOJ.

While the Department of Justice leadership has consistently mismanaged grant programs and the funding they receive, Congress is ultimately responsible for much of the inefficiency and duplication outlined in this report. Congress has refused to eliminate duplicative spending, failed to conduct meaningful oversight, and continues to create new federal programs, earmark funding for hundreds of local projects, and appropriate billions of dollars that are not needed and remain unspent every year.

This report highlights just a few multi-million dollar examples of inefficient spending and waste that hinder DOJ's goals and mission. The Department's core mission is to:

- “Defend the interests of the United States according to law;”
 - Yet, DOJ illegally allowed grantees access to more than \$500 million despite specific legal instructions not to.
- “Ensure public safety against threats foreign and domestic;” and
 - Yet, DOJ currently collaborates with and is funding Muslim Brotherhood U.S. affiliates and other entities with links to terrorism.
- “Provide federal leadership in preventing and controlling crime...”⁵

¹ William J. Krouse, Edward Vincent Murphy, M. Angeles Villarreal, CRS Report: RL34092, Commerce, Justice, Science, and Related Agencies: FY2008 Appropriations, March 17, 2008.

² “Putnam Sheriff Pleads Guilty to Federal Theft, *Associated Press/Frankfort Times* (Indiana), August 30, 2008, <http://www.ftimes.com/main.asp?SectionID=1&SubSectionID=1&ArticleID=47678&TM=33794.79>.

³ Iowa Department of Human Rights, “The Juvenile Accountability Incentive Block Grant Program in Iowa 1999 – 2000,” November 1999. Found at http://www.iowa.gov/dhr/cjip/images/pdf/2000_pub/10-18-99.pdf.

⁴ DOJ Website, About Us, http://www.fbi.gov/aboutus/faqs/working_with_fbi.htm, accessed August 15, 2008.

⁵ Department of Justice Mission Statement, <http://www.usdoj.gov/02organizations/>, accessed August 15, 2008.

- Yet, DOJ spends millions on preventative grants with results that are undeterminable because of lack of data and outcome measurements, and works with Hollywood on movies that glorify violence, including assassinating the president.

This report makes specific recommendations for each of the examined programs at the end of every section. However, in general, DOJ should:

- streamline duplicative programs and shift those resources to high-performing initiatives;
- establish an online database of all grants;
- follow the laws and regulations for grant close-out processes;
- establish actual measurable outcomes and forms of accountability for all programs;
- establish a system to track the number of hours that its employees are AWOL; and
- prioritize law enforcement over conferences and Hollywood consultation.

In addition, Congress should:

- require competitive bidding for grants rather than permitting costly, earmarked pet projects;
- refrain from creating even more duplicative federal programs;
- terminate National Drug Intelligence Center (NDIC) and assess whether any essential functions should be reassigned to another agency; and
- offset funding for grants by the amount of the questionable costs documented in DOJ Inspector General reports.

With an increasing reliance on federal law enforcement to provide not only traditional domestic services, but also to protect the U.S. against the threat of terrorism and international crime, the Department of Justice cannot afford to waste valuable resources on unnecessary programs and costly management errors.

BACKGROUND

DEPARTMENT OF JUSTICE HISTORY & FUNDING TRENDS

Created by Congress in 1870, the Department of Justice is the primary federal department tasked with enforcing the law. Specifically, DOJ's mission is to

- “enforce the law and defend the interests of the United States according to the law;
- “ensure public safety against threats foreign and domestic;
- “provide federal leadership in preventing and controlling crime;
- “seek just punishment for those guilty of unlawful behavior; and
- “ensure fair and impartial administration of justice for all Americans.”⁶

Home to our country's major law enforcement agencies, including the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA), DOJ is responsible for combating crime, ensuring public safety, protecting the U.S. from terrorist attacks and espionage, managing our federal prison system, and defending the United States in court, among other duties.

In the 1960s, Congress directed DOJ to begin providing financial support to local law enforcement units across the country.⁷ Such a role was previously outside the Department's purview, as combating crime has historically been the responsibility of state and local governments.⁸ Over the last 20 years, Congress has continued to expand DOJ's involvement in local law enforcement with the creation of several new federal grant programs including the Community Oriented Policing Services (COPS), Edward Byrne Memorial Justice Assistance Grants, and Local Law Enforcement Block Grants, all of which provide federal funding for state and local law enforcement endeavors.⁹

Funding for the Department of Justice has consistently increased, more than doubling since 1994.¹⁰ The additions of new agencies and DOJ offices, coupled with the significant increase in funding provided to local law enforcement entities through DOJ grants have contributed to the funding increases.

⁶ DOJ website, “About DOJ,” <http://www.usdoj.gov/02organizations/>, accessed September 2, 2008.

⁷ National Archives Website, Guide to Federal Records, Records of the Law Enforcement Assistance Administration, <http://www.archives.gov/research/guide-fed-records/groups/423.html>.

⁸ Nathan James, Congressional Research Service (CRS), RS22416: “Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History,” February 1, 2008.

⁹ Nathan James, CRS, RS22416: “Edward Byrne Memorial Justice Assistance Grant Program: Legislative and Funding History,” February 1, 2008.

¹⁰ DOJ website, Chart: Department of Justice Funding for Fiscal Years 1988 thru 2003 Request for Violent Crime Reduction Programs (VCRP), Mandatory, and Direct, http://www.usdoj.gov/jmd/budgetsummary/btd/1975_2002/2002/html/page2.htm.

In FY 2008, Congress provided more than \$24 billion to the agency, and the president’s FY 2009 budget request was \$26.6 billion.¹¹

Chart A. Total DOJ Budget Authority 2000-2009 (in billions)

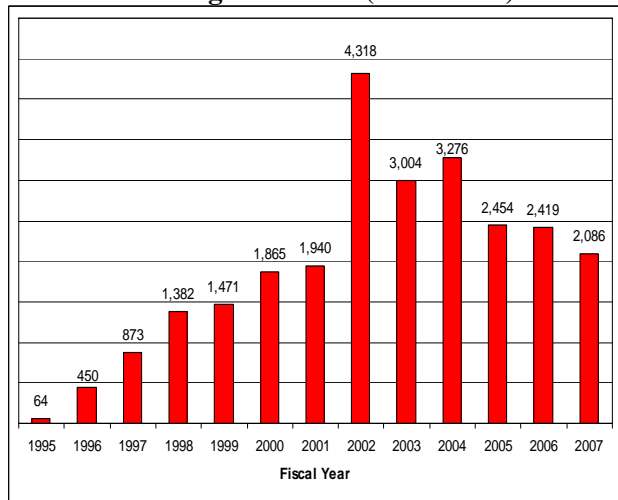


Source: DOJ, *Budget Authority and Positions, FY 2000 -- FY 2009*

Despite the consistent upward trend, in the last 10 years, DOJ funding has fluctuated, as shown in Chart A. According to a report of the Congressional Research Service, “In recent years, Congress has questioned the effectiveness of many DOJ grant programs. As Congress continues to cut spending for many discretionary grant programs, there may be greater scrutiny of these programs.”¹²

The Office of Justice Programs (OJP) administers most of DOJ’s local law enforcement grants. Funding for federal grants given to local law enforcement through these programs and the COPS

Chart B. DOJ Local Law Enforcement & COPS Funding 1995-2007 (in millions)



Source: OMB *Historical Tables, Outlays for Grants to State & Local Government, 1940-2009*

program, has steadily increased — from \$64 million in 1995 to almost \$2 billion only six years later in 2001, as demonstrated in Chart B.¹³ Following the terrorist attacks of 9/11, federal funding of local enforcement through these programs jumped to \$4.3 billion in 2002.¹⁴

With the creation of the Department of Homeland Security, many local law

enforcement units began receiving federal grant funding through DHS programs. These duplicative grants, combined with continued scrutiny from Congress and others contributed to slight decreases in local law enforcement funding through DOJ. Yet, in 2007, the Justice Department still spent more than \$2 billion on these grants.¹⁵

¹¹ Office of Management and Budget, President’s FY 2009 Budget, <http://www.whitehouse.gov/omb/budget/fy2009/justice.html>.

¹² Nathan James, CRS, RL33489: “An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs,” August 16, 2008.

¹³ Office of Management and Budget, President’s FY 2009 Budget, Historical Tables, Total Outlays for Grants to State and Local Governments By Function, Agency, and Program, 1940-2009.

¹⁴ Office of Management and Budget, President’s FY 2009 Budget, Historical Tables, Total Outlays for Grants to State and Local Governments By Function, Agency, and Program, 1940-2009.

FINDINGS

DEPARTMENT OF JUSTICE HELPS HOLLYWOOD

LIGHTS! CAMERA! ACTION!!!!

The Department of Justice is helping solve some of the world's greatest crimes, real and fictional. Several DOJ agencies, including the U.S. Marshals, the DEA, and the FBI, have public affairs staff that act as liaisons to Hollywood movie producers. Movie makers and TV producers utilize the various agencies for props and consultation in order to produce more realistic films relating to DOJ efforts. Unfortunately, valuable staff resources that should be directed to addressing actual crime, are instead being spent enhancing fictional drama that often does not promote the values associated with DOJ's mission — such as enforcing the law.



DOJ's most notable Hollywood efforts can be found at the FBI. In 2005, the *USA Today* reported, "The FBI created its entertainment office in the 1930s, around the time James Cagney played a fearless FBI agent in the 1935 movie 'G' Men. The agency 'realized a lot of people were getting their information from popular culture' and wanted to ensure agents were portrayed accurately, says Rex Tomb, who heads the 10-person office."¹⁶

When working with Hollywood, the FBI provides the following services to movie makers:

- "Guidance on content regarding FBI investigations, procedures, structure, and history;
- "Information on costumes, props, scenery, and weapons;
- "Fact checks;
- "Liaison and coordination with local FBI field offices;
- "Coordination of location shots; and
- "Access to FBI facilities for filming scenes, interviews, or b-roll footage."¹⁷

In response to recent congressional inquiry, the FBI explained that they do not have an office dedicated entirely to the entertainment industry. All entertainment-related requests go through the Investigative Publicity and Public Affairs Unit, and members of the 11-person team respond to entertainment inquiries as part of their job. No particular individual is dedicated solely to working with Hollywood movie makers.¹⁸

The FBI's website explains its Hollywood efforts in greater detail, "If you are a writer, author, or producer who wants to feature the FBI, we may be able to work with you to create an accurate

¹⁵ Office of Management and Budget, President's FY 2009 Budget, Historical Tables, Total Outlays for Grants to State and Local Governments By Function, Agency, and Program, 1940-2009.

¹⁶ Mimi Hall, "Hollywood, Pentagon Share Rich Past," *USA Today*, March 7, 2005, http://www.usatoday.com/life/2005-03-07-hollywood-pentagon_x.htm.

¹⁷ DOJ Website, About Us, http://www.fbi.gov/aboutus/faqs/working_with_fbi.htm.

¹⁸ Information obtained by the Congressional Research Services from the FBI Public Affairs Department, September 2008.

portrayal of the Bureau. We've been doing it since the 1930's. ...Specifically, the Investigative Publicity and Public Affairs Unit (IPPAU) in our Office of Public Affairs is a small staff that spends a portion of its time working with domestic and international screenwriters, producers, authors, and other industry personnel associated with TV programs, documentaries, made-for-TV movies, books, and motion pictures."¹⁹

The website goes on to say the IPPAU "unit is the same one that manages national and international publicity for wanted fugitives (including the 'Ten Most Wanted Fugitives'), Most Wanted Terrorists, missing children, and coordinates other proactive initiatives."²⁰ In short, the staff tasked with helping Hollywood make fictional crime scenes believable, is also responsible for public affairs efforts related to actual criminals and exploited children, a cause that would seem more worthy of their limited time and resources.

According to the FBI, the agency has "assisted the motion pictures 'The Kingdom,' 'Shooter,' and 'Breach'; television programs like 'Without A Trace,' 'CSI,' 'Numb3rs,' 'Criminal Minds,' and 'The Closer'; and books like *Big City, Bad Blood*; *Lone Wolf: Eric Rudolph: Murder, Myth and the Pursuit of an American Outlaw*; and *Lightning Out of Lebanon: Hezbollah Terrorists on American Soil*."²¹ It appears the FBI is working on hundreds of entertainment projects every year. A recent article detailed that in 2006, "the FBI helped lend authenticity to 649 projects, usually films, TV shows and books."²²

The Investigative Publicity and Public Affairs' "Highlights of Accomplishments" is assembled quarterly by FBI staff and outlines the various Hollywood projects worked on by the FBI, including radio spots, books, television shows, documentaries, and movies. The "Feature Film/Screenwriter" section of January - March 2008 report provides a sampling of the FBI's movie efforts:

- "After completing the review of the script from the forthcoming motion picture *The Fast and The Furious 4*, the FBI provided authorization to use the FBI's insignia during production and set design of the movie. In addition, coordinated background interviews with SWAT members and the script writers in Los Angeles.
- "[The FBI] Provided assistance to Louisa Jaslow who was working on a feature film called *The Factory* and stars John Cusack. The film is a psychological thriller about a police officer on the trail of a criminal on the streets of Buffalo. It is produced by Silver Pictures and distributed by Warner Brothers. The film features the use of the FBI's ViCAP database to find a missing girl. Background information was provided on the FBI's ViCAP program.
- "[The FBI] Arranged a meeting between SA Doug Hunt, San Francisco, and actor David Schwimmer to discuss a script that Mr. Schwimmer has in development on Internet predators. SA Hunt has an expertise in cyber crimes.

¹⁹ DOJ Website, About Us, http://www.fbi.gov/aboutus/faqs/working_with_fbi.htm.

²⁰ DOJ Website, About Us, http://www.fbi.gov/aboutus/faqs/working_with_fbi.htm.

²¹ DOJ Website, About Us, http://www.fbi.gov/aboutus/faqs/working_with_fbi.htm.

²² Paul Bond, "FBI seminar a hit with Hollywood," *Washington Post*, January 11, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/11/AR2007011100092.html>.

- “[The FBI] Provided background material on Hostage Rescue Team training to Beau Ferris, FoxTor Productions, who is working on the film Max Payne.
- “[The FBI] Coordinated an interview between Paul Sapiano, Lions Gate Films, and SA Ernst Weyand, Salt Lake City, about Indian Country violations. Mr. Sapiano is writing a script about a heist of a casino on an Indian reservation and wanted to discuss at what point the FBI would be involved.
- “[The FBI] Provided assistance to World Wrestling Entertainment Films Productions for a feature movie 12 Rounds that has a limited FBI presence. Film being shot in New Orleans. New Orleans field office provided technical assistance to the production company.
- “In February 2008, IPPAU in conjunction with Operational Technology Division AD Marcus Thomas, Laboratory Division Media Representative Ann Todd, and Training Academy Public Affairs Specialist Kurt Crawford, facilitated briefings at Quantico and a shooting demonstration at the Training Academy’s firing range for producer Michael Mann, and actor Christian Bale who is playing a fictionalized version of FBI Special Agent Melvin Purvis in the movie Public Enemies. Production began in Chicago and Milwaukee in March, 2008.”²³

The Investigative Publicity and Public Affairs Unit currently has 11 employees, nine of whom are at GS-13 or GS-14 on the federal pay scale. In 2008, base pay for a GS-13 at DOJ, living in the Washington, D.C. area ranges from \$82,961 to \$107,854, while a GS-14 in the same area ranges from \$98,033 to \$127,442.²⁴ Meanwhile, the average salary for a police patrol officer in the Washington, D.C. area is \$53,122,²⁵ with the national median at \$48,283.²⁶

Despite the multi-million dollar budgets of most Hollywood films, the FBI is not compensated by the industry for using taxpayer-funded staff resources to assist with these movies and TV shows.²⁷ As noted on its website, the FBI “assisted with” the movie “The Kingdom,” which featured a well-known cast, including Jamie Foxx, Jennifer Garner, Chris Cooper, and Tim McGraw.²⁸ “The Kingdom” had a production budget of \$72.5 million, and to date has grossed over \$121 million, bringing in a net profit of nearly \$50 million.²⁹ Yet, the federal government — currently more than \$10 trillion in debt — subsidized the FBI’s involvement with this movie, and dozens others like it.

²³ Information obtained by the Congressional Research Services from the FBI Public Affairs Department, September 2008, January – March 2007 Investigative Publicity and Public Affairs’ “Highlights of Accomplishments.

²⁴ DOJ, Salaries, Promotions, and Benefits, <http://www.usdoj.gov/oarm/arm/hp/hpsalary.htm>.

²⁵ Salary.com, average salary for police patrol officer in Washington, D.C.

²⁶ Salary.com, accessed September 3, 2008. “This basic market pricing report was prepared using our Certified Compensation Professionals’ analysis of survey data collected from thousands of HR departments at employers of all sizes, industries and geographies.” Data as of July 2008.

http://swz.salary.com/salarywizard/layouthtmls/swzl_compresult_national_LG12000003.html#bottom.

²⁷ Information obtained by the Congressional Research Service from the FBI Public Affairs Department, September 2008

²⁸ “The Kingdom” movie official website, <http://www.thekingdommovie.com/>.

²⁹ Information obtained by the Congressional Research Service from TheNumbers.com, an online resource that tracks business information on movies, <http://www.the-numbers.com/movies/2007/KNGDM.php>.

The FBI also contributed to the movie “Shooter,” starring Mark Wahlberg and Danny Glover, which made over \$160 million between box office and DVD sales.³⁰ The movie carries an “R” rating for “strong graphic violence and some language,”³¹ and the film’s plot revolves around a violent plan to kill the president of the United States.³² In addition, the FBI assisted with six episodes of a violent television series, “American Gangsters,” which highlights the lives of infamous gangsters such as the D.C. snipers, two men who went on a killing spree in the Washington D.C. area in October 2002, and Frank Lucas, an organized crime boss and drug dealer in the early 1970s. The series’ website offers viewers quizzes to test their knowledge of gang members, and casually quips about the “lessons learned” from these gangsters stating, “You can’t enjoy the finer things in life when you’re locked up,” “Don’t mess with the money,” and “When you steal money from banks - you still get charged.”³³

Clearly these types of movies and shows, which focus on plots to kill the president and promote their shows by glorifying gangsters, include numerous violent crime scenes, and refer flippantly to criminal penalties for those who break the law, do little to promote the mission of justice, law enforcement, or combating crime. Yet, FBI staff continue to assist producers with such efforts.

In 2007, the FBI expanded its Hollywood efforts by hosting an event for industry movie makers and screenwriters located in Los Angeles. Entitled, “FBI -- Crime Essential for Writers,” seminar attendees, 47 in all,³⁴ heard from FBI staff “a whirlwind history of Islam, beginning with Sunni-Shiite hostilities in 682 AD,” enjoyed a “brief lesson in the history of the FBI in film and TV,” and saw “photos of the suicide bombers who killed 17 U.S. sailors aboard the USS Cole in 2000.”³⁵ The FBI’s January – March 2007 Investigative Publicity and Public Affairs’ “Highlights of Accomplishments,” described this work, stating the staff, “worked with FBI Los Angeles to host FBI 101- *Crime Essentials for Writers*, January 10, 2007, in Los Angeles.”³⁶ At a cost of \$1,600 to the taxpayers, the FBI flew two public affairs staffers from D.C. to Los Angeles for the event. One L.A. FBI agent also attended the workshop, while three others “served as subject matter experts, providing short presentations and answering questions before returning to their offices.”³⁷

³⁰ Information obtained from TheNumbers.com, an online resource that tracks business information on movies, <http://www.the-numbers.com/movies/2007/SHOTR.php>.

³¹ The Motion Picture Association of America, <http://www.filmratings.com/>.

³² “The Kingdom” movie official website, <http://www.thekingdommovie.com/>.

³³ BET website, American Gangsters Gangster Guide,

<http://www.bet.com/OnTV/BETShows/americangangster/default.htm??Referrer={F538EA1D-1840-40AB-81F4-05B7066C33A8}>.

³⁴ Information obtained via E-mail, by the Congressional Research Services from the FBI Public Affairs Department, September 2008.

³⁵ Paul Bond, “FBI seminar a hit with Hollywood,” *Washington Post*, January 11, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/11/AR2007011100092.html>.

³⁶ Information obtained by the Congressional Research Services from the FBI Public Affairs Department, September 2008, January – March 2007 Investigative Publicity and Public Affairs’ “Highlights of Accomplishments.”

³⁷ Information obtained via E-mail, by the Congressional Research Services, from the FBI Public Affairs Department, September 2008.

In detailing the FBI's account of its history with Hollywood, one article notes that "Shortly thereafter, J. Edgar Hoover conceived of something he called 'The Dillinger Rule' — the FBI had great stories to tell, so Hollywood ought to tell them, and make sure that the FBI were the good guys. And he wanted to know about anything FBI-related that Hollywood had in the works. The 1965 Disney film 'That Darn Cat!' really had Hoover on edge, Kortan [an FBI presenter] said, because he feared that a film about an allergic agent assigned to follow around a cat would make the FBI look a tad silly, a reputation the bureau didn't need during the tumultuous 1960s."³⁸



Former FBI Director
J. Edgar Hoover

The January – March 2007 "Highlights of Accomplishments" makes it clear the FBI intends to continue hosting events for the Hollywood entertainment industry. For example, the report outlines that the FBI "worked with the Directors Guild of America about hosting [a] FBI-themed workshop for television and film directors in 2007/2008," and

"Reached out to the Directors Guild of America's First Vice President Paris Barclay regarding hosting an FBI-themed workshop for [the]

Directors Guild of America."³⁹ Furthermore, FBI staff hosted another *Crime Essentials for Writers* seminar for industry writers, but this time in New York City.⁴⁰

According to the April – June 2007 highlights report, on June 23, 2007, the FBI completed another workshop, "for television and motion Picture Directors called, 'Portraying the FBI in a Post-9/11 World' at the Directors Guild of America," located in Los Angeles. The event was attended by 60 Hollywood directors.⁴¹

The quarterly "Highlights of Accomplishments" reports provide hundreds of examples of how the publicity efforts of the FBI public affairs staff have brought numerous criminals to justice. For example, FBI staff consistently work with the show *America's Most Wanted*, which has generated the capture and punishment of 15 criminals over the years.⁴² In response to congressional inquiry, the FBI was unable to quantify the amount of taxpayer resources expended in its work with the entertainment industry because public affairs staff that work with Hollywood also have other responsibilities. Unfortunately, the same staff dedicated to using the public airwaves to capture criminals and find missing children, are distracted from these real life cases by responding to entertainment inquiries about fictional FBI agents and make believe crime scenes. Even more, FBI staff provide these resources to Hollywood—a multi-billion dollar industry—at no charge to Hollywood, but at the expense of taxpayers instead.

³⁸ Paul Bond, "FBI seminar a hit with Hollywood," *Washington Post*, January 11, 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/11/AR2007011100092.html>.

³⁹ Information obtained by the Congressional Research Service from the FBI Public Affairs Department, September 2008, January – March 2007 Investigative Publicity and Public Affairs' "Highlights of Accomplishments."

⁴⁰ Information obtained by the Congressional Research Service from the FBI Public Affairs Department, September 2008, January – March 2007 Investigative Publicity and Public Affairs' "Highlights of Accomplishments."

⁴¹ Information obtained by the Congressional Research Service from the FBI Public Affairs Department, September 2008, April – June 2007 Investigative Publicity and Public Affairs' "Highlights of Accomplishments."

⁴² America's Most Wanted Website, http://www.amw.com/fugitives/most_wanted_lists.cfm, accessed September 2008.

RECOMMENDATIONS

- The FBI's Investigative Publicity and Public Affairs Unit should significantly scale back its involvement in most entertainment-related activities, and should instead use those resources to focus on using the media to help capture criminals and find missing children.
- With any Hollywood projects with which it chooses to assist, the FBI should charge a fee to entertainment writers, movie makers, and TV producers, in order to recoup the cost associated with such assistance.
- The FBI should immediately suspend all federally funded seminars and workshops geared only toward members of the entertainment industry.

DOJ SUPPORTING ORGANIZATIONS UNDER INVESTIGATION FOR TERROR TIES

As the agency tasked with handling our nation's legal affairs, the DOJ is currently prosecuting a terror-financing case against the Holy Land Foundation, a non-government organization that is accused of funding terrorists. During the course of this investigation and trial, DOJ has identified several organizations as unindicted co-conspirators.⁴³ Despite their known ties to terror and their being under investigation by DOJ, the agency funds, endorses, or otherwise legitimizes these same Islamist groups and Muslim Brotherhood affiliates in the U.S., even though DOJ itself is currently investigating these groups.

The Muslim Brotherhood is an Islamist organization opposed to Western liberal democracy that seeks to establish an Islamic Caliphate, or one-world government, ruled by Islamic law. On Thursday, July 10, 2008, the Senate Homeland Security and Governmental Affairs Committee held a hearing entitled, "The Roots of Violent Islamist Extremism and Efforts to Counter It."⁴⁴ The testimonies of Zeyno Baran of the Hudson Institute, Maajid Nawaz of the Quilliam Foundation, and Steve Emerson of the Investigative Project on Terrorism document the history and extremist ideology of the Muslim Brotherhood, one of the first and most prominent Islamist organizations.

According to these witnesses, the central tenets of Islam and the Muslim Brotherhood is that Islam is the only basis for a legal and political system and that Islamic law, or *Sharia*, must shape all aspects of human society. According to Zeyno Baran, the goal of the Muslim Brotherhood and other Islamist groups is the eventual Islamization of the world and the "[rejection] of Western norms of pluralism, individual rights, and the secular rule of law." This is diametrically opposed to liberal democracy. In other words, Islamists work to promote "separation, sedition, and hatred, ... [which] is at the core of Islamist terrorism."⁴⁵

The extremist ideology of the Muslim Brotherhood is best illustrated by the Muslim Brotherhood's own strategic plan for its affiliates in the U.S. The plan was outlined in the Muslim Brotherhood memorandum that was submitted as evidence by federal prosecutors in a recent terror financing trial.⁴⁶ The Muslim Brotherhood's description of its agenda in the United States is alarming:

“Understanding the role of the Muslim Brother in North America: The process of settlement is a ‘Civilization-Jihadist Process’ . . . the [Muslim Brotherhood affiliates] must understand that their work in America is a kind of grand Jihad in

⁴³ Unindicted co-conspirators are people who federal prosecutors have evidence suggesting they were a part of a criminal conspiracy, along with the people who are on trial. The Justice Department is currently prosecuting a terror-financing case against the Holy Land Foundation, a non-government organization that is accused of sending money to terrorists; for the list of unindicted co-conspirators, see *United States District Court For the Northern District of Texas, Dallas Division, USA vs. Holy Land Foundation et al.* Attachment A.

⁴⁴ <http://hsgac.senate.gov/public/index.cfm?Fuseaction=Hearings.Detail&HearingID=5a224d11-2f50-4fcc-a1f0-450ee0b42885>

⁴⁵ Testimony from Zeyno Baran presented to the Senate Committee on Homeland Security and Governmental Affairs, July 10, 2008.

⁴⁶ “An Explanatory Memorandum on the General Strategic Goal for the Group in North America,” Government Exhibit 003-0085, *U.S. v. Holy Land Foundation, et al.*

eliminating and destroying the Western Civilization from within and ‘sabotaging’ its miserable house by their hands and the hands of unbelievers so that it is eliminated and God’s religion is made victorious over all other religions.”⁴⁷

The following are a few examples of the organizations currently being investigated by DOJ for possible involvement with terrorists, but they are also receiving or have recently received funds or other support from DOJ despite these serious concerns.

The Council on American-Islamic Relations (CAIR)

CAIR was established in 1994 by leaders of the Islamic Association of Palestine, a Muslim Brotherhood affiliate considered by the U.S. government to be a front for terrorist group Hamas.⁴⁸ In 2007, DOJ labeled CAIR as a member of the Muslim Brotherhood and an unindicted co-conspirator in a terror-financing trial.⁴⁹ This charge was confirmed by testimony and documentary evidence admitted in the ongoing prosecution of the Holy Land Foundation for Relief and Development (HLF), an organization charged by the U.S. government with being a terrorist entity that fundraised for Hamas. According to court documents, CAIR chairman Omar Ahmad mediated a financial dispute involving the HLF over funding for Hamas founder Sheik Jamil Hamami.⁵⁰ CAIR was co-founded by Rafeeq Jaber who was also the president of the American Muslim Society, a group listed in the aforementioned Muslim Brotherhood memorandum to carry out the “civilization jihad” against the U.S.⁵¹

Despite these concerns, DOHJ has funded and supported CAIR on a number of occasions including the following:

- In March 2005, DOJ’s Office of the Inspector General collaborated with CAIR to distribute information on how to report violations of civil rights.⁵²
- In June 2005, DOJ’s Community Relations Service hosted a seminar in Houston with CAIR entitled “Building Cultural Competency.”⁵³
- CAIR is a current member of DOJ’s Hate Crimes Task Force in Sacramento, California.⁵⁴

The Islamic Society of North America (ISNA)

ISNA was founded in 1963 at the University of Illinois Urbana-Champaign by several leaders of the Muslim Student Association, a U.S. affiliate of the Muslim Brotherhood.⁵⁵ Like CAIR,

⁴⁷ “An Explanatory Memorandum on the General Strategic Goal for the Group in North America,” Government Exhibit 003-0085, *U.S. v. Holy Land Foundation, et al.*

⁴⁸ Hamas is a terrorist organization that was also founded by the Muslim Brotherhood. See part 1 “CAIR’s origins” in the Investigative Project’s *CAIR Exposed* at <http://www.investigativeproject.org/article/621> and “CAIR trains FBI agents as new report cites links to terror” by Rowan Scarborough, *Insight Magazine*, March 18, 2004.

⁴⁹ *United States District Court For the Northern District of Texas, Dallas Division, USA vs. Holy Land Foundation et al.*, Attachment A.

⁵⁰ “CAIR trains FBI agents as new report cites links to terror” by Rowan Scarborough, *Insight Magazine*, March 18, 2004.

⁵¹ “An Explanatory Memorandum on the General Strategic Goal for the Group in North America,” Government Exhibit 003-0085, *U.S. v. Holy Land Foundation, et al.*

⁵² “Report to Congress on Implementation of Section 1001 of the USA PATRIOT Act (as required by Section 1001(3) of Public Law 107-56).” Office of the Inspector General, Department of Justice, March 11, 2005; <http://www.usdoj.gov/oig/special/0503/index.htm>.

⁵³ <http://www.cair.com/ArticleDetails.aspx?mid1=777&&ArticleID=15718&&name=n&&currPage=80>.

⁵⁴ http://www.usdoj.gov/usao/cae/hate_crimes/index.html (accessed September 5, 2008).

ISNA is an unindicted co-conspirator in the HLF terror financing trial.⁵⁶ ISNA is also at the top of the list in the Muslim Brotherhood memorandum which lays out an agenda to carry out a “civilization jihad” against the U.S.⁵⁷

Yet, despite these concerns, DOJ has funded and supported ISNA on a number of occasions including the following:

- The Bureau of Prisons at DOJ awarded \$2,300 in 2005 and again in 2006 for prisoner funeral services to one of the oldest affiliates of ISNA, the Islamic Center of Greater Kansas City;⁵⁸
- In 2005, The Bureau of Federal Prisons at DOJ awarded several grants totaling \$12,400 for chaplain services to the Islamic Center of Pittsburgh, established in 1985 by the Muslim Student Association, an affiliate of ISNA;⁵⁹
- DOJ co-sponsored the August 2007 ISNA convention despite DOJ lawyers’ objections and concerns that sponsorship of a named unindicted co-conspirator would undermine the agency’s case against the Holy Land Foundation for Relief and Development; and⁶⁰
- In August 2007, DOJ’s Federal Bureau of Prisons had a booth at the ISNA conference and passed out literature in order to recruit prison chaplains.⁶¹

RECOMMENDATION

- DOJ should prohibit any collaboration with or funding of Muslim Brotherhood U.S. affiliates and other entities with links to terrorism. It is the legal right and obligation of DOJ to bar, withhold or rescind funding for or collaboration with any entities that do not advance the mission of the Department, which is the security and stability of the United States, including its culture, its people, and its form of government.

⁵⁵ “Muslim Student Association,” the Investigative Project, pg. 8; see also “A Little Taste of History.” MSA-National website (Archive, March 21, 2005), <http://web.archive.org/web/20050321023458/http://www.msa-national.org/about/history.html> (Accessed August 13, 2007); Poston, Larry A. “Da’wa in the West,” *The Muslims of America*, ed, Yvonne Haddad (New York: Oxford University Press, 1991), 121, 129.

⁵⁶ ISNA has other ties to Islamic extremism. For example, Sami Al-Arian was a founding member of ISNA. On April 14, 2006, Al-Arian pled guilty to “conspiracy to make or receive contributions of funds, goods or services to or for the benefit of the Palestinian Islamic Jihad, a Specially Designated Terrorist Organization.” See “Biography of Sami Al-Arian,” American-Arab Anti-Discrimination Committee (ADC) program of Speakers, Moderators, and Award Recipients, 17th National Convention, Arlington, Virginia, June 8-11, 2000; Yasmin Moll, “A Shattered Dream,” *Egypt Today*, December 10, 2003; http://www.usdoj.gov/opa/pr/2006/April/06_crm_221.html.

⁵⁷ “An Explanatory Memorandum on the General Strategic Goal for the Group in North America,” Government Exhibit 003-0085, *U.S. v. Holy Land Foundation, et al.*

⁵⁸ USASpending.gov, details of the DOJ funding awarded to an ISNA affiliate in Kansas City, Missouri, http://www.usaspending.gov/fpds/fpds.php?reptype=r&detail=-1&sortby=f&datatype=T&reptype=r&database=fpds&parent_id=239418&fiscal_year=2005&record_num=f500; see also “Muslim Community of Greater Kansas City: A Brief Historical Overview,” accessed at the American Muslim Online at <http://www.americanmuslim.net/3community3a.html>, accessed July 31, 2001 and archived by Investigative Project on Terrorism.

⁵⁹ http://www.usaspending.gov/fpds/fpds.php?reptype=r&detail=-1&sortby=f&year_range=2005-2008&datatype=T&reptype=r&database=fpds&parent_id=241743&fiscal_year=2005&record_num=f500; see also Islamic Horizons, May-June 1995; “More than 200 Celebrate Humanity Day at Islamic Center of Pittsburgh,” *University Wire*, November 22, 2002.

⁶⁰ “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007 and Hudson, Audrey, “Republicans Slam Islamic Society convention,” *Washington Times*, August 31, 2007.

⁶¹ “45th Annual ISNA Convention: a Time for Change” pamphlet, page 7.

HUNDREDS OF GUNS AND LAPTOPS IN THE POSSESSION OF DOJ LOST, STOLEN OR UNACCOUNTED FOR

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is the federal law enforcement agency charged with regulating the firearm industry. Federal firearm license dealers (FFLs) are required to keep detailed records of every single gun they acquire and sell so that ATF can trace every gun recovered at a crime scene. Simple paper infractions of a misspelled name or improper abbreviation can lead to revocation of the federal firearms license needed to operate a gun store.

Yet, the ATF loses track of at least one gun in its possession every month and has failed to meet the very standards that it requires of licensed dealers. In fact, ATF and other DOJ agencies have lost track of hundreds of weapons over the past decade.

At least two of the weapons ATF misplaced were found in the hands of criminals. In one instance, a stolen gun was used to shoot through the window of a residence. In the other, a stolen ATF gun was recovered from a burglary suspect.

Not only is it dangerous for ATF not to properly secure these weapons, but it is also hypocritical for a government agency to fail to abide by the same record keeping standards for its own guns as those it enforces on law abiding citizens.

The ATF's lax supervision of property has not been limited to weapons, but includes laptops and ammunition, as well. According to a September 2008 report, DOJ's Inspector General said, "We found substantial losses and weak controls over management of this property throughout DOJ law enforcement agencies."⁶²

The IG report detailed numerous concerns with ATF's inability to properly maintain accurate inventories of weapons, ammunitions, and laptops, which often contained sensitive or classified information.

The latest IG audit spanned nearly five years, from October 1, 2002, to August 31, 2007, and concluded that when calculating weapon and laptop losses per 1,000 agents, "ATF's rate for lost, stolen, or missing weapons (0.52) was nearly double those of the FBI (0.29) and DEA (0.28). ATF's losses of laptop computers were significantly higher at nearly 3 per 1,000 agents, compared with less than 1 per 1,000 FBI or DEA agents."⁶³

In total, 76 weapons and 418 laptop computers were lost, stolen, or missing from ATF in just the five years audited. That means, on average, ATF loses more than one weapon and seven laptops every month. In comparison to the findings in a 2002 audit, the rate of weapons lost per month (1.29) has nearly tripled and the rate of laptops lost per month (7.08) is 50 times greater.

⁶² U.S. Department of Justice Office of the Inspector General, "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property," Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

⁶³ U.S. Department of Justice Office of the Inspector General, "The Bureau of Alcohol, Tobacco, Firearms and Explosives' Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property," Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

A 2002 audit also revealed that both the Federal Bureau of Investigation and Drug Enforcement Agency also have failed to keep track of hundreds of weapons. At the time of the audit, the FBI reported 354 lost or stolen weapons,⁶⁴ and the DEA could not account for 16.⁶⁵ In a follow-up audit, the Inspector General reported that between February 2002 and September 2005, FBI reported 160 lost or stolen firearms,⁶⁶ while from January 2002 to June 2007, the DEA could not account for 91 weapons.⁶⁷

INSTANCES OF THEFT OR LOSS ARE OFTEN NOT REPORTED BY ATF STAFF

To make matters worse, many of the ATF losses were noticed only as a result of the recent IG audit and inventory checks – not because ATF agents actually reported the losses:

“ATF staff did not report many of the lost, stolen, or missing weapons and laptop computers to ATF’s Internal Affairs Division (Internal Affairs), as required by ATF’s property management policies. ATF staff also did not report to DOJ the number of laptop computers authorized to process National Security Information (NSI), and ATF did not report 16 incidents of lost laptop computers to the DOJ’s Computer Emergency Response Team (DOJCERT), as required by Department policy.”⁶⁸

Of the 76 weapons in ATF’s custody that were lost, stolen, or missing, 22 (29 percent) were determined missing during an inventory check or could not be characterized as lost or stolen because documents were destroyed or missing. Upon further review, 40 of the 76 lost weapons were lost as a result of ATF employee carelessness or failure to follow ATF policy.⁶⁹

Of the 418 laptops lost, stolen, or missing, 360 (or 86 percent) were determined missing during an inventory check or could not be characterized as lost or stolen because documents were destroyed or missing. Most of the missing laptops (274) were only found missing during inventory checks. Only 53 of the other 144 laptops were reported as missing or stolen to Internal Affairs. “ATF did not follow proper procedures to report the remaining 91 laptop computer losses and did not provide a reason why it did not report those losses.”⁷⁰

⁶⁴ U.S. Department of Justice Office of the Inspector General, “The Federal Bureau of Investigation’s Control Over Weapons and Laptop Computers Follow-Up Audit,” Audit Report 07-18, February 2007

⁶⁵ U.S. Department of Justice Office of the Inspector General, “The Drug Enforcement Administration’s Control Over Weapons and Laptop Computers Follow-Up Audit,” Audit Report 08-21, March 2008

⁶⁶ U.S. Department of Justice Office of the Inspector General, “The Federal Bureau of Investigation’s Control Over Weapons and Laptop Computers Follow-Up Audit,” Audit Report 07-18, February 2007

⁶⁷ U.S. Department of Justice Office of the Inspector General, “The Drug Enforcement Administration’s Control Over Weapons and Laptop Computers Follow-Up Audit,” Audit Report 08-21, March 2008

⁶⁸ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

⁶⁹ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

⁷⁰ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

As an agency, ATF also is delinquent in reporting property thefts to DOJ. DOJ requires all of its component agencies to report losses of weapons and laptop computers, however, “ATF staff did not report any lost, stolen or missing weapons and laptop computers in the required semi-annual reports to DOJ.” In the five years following ATF’s move from the Department of Treasury to DOJ, the agency did not submit a semi-annual report to DOJ summarizing thefts of government property. DOJ’s Justice Management Division sent reminders to ATF in 2005, 2006, and 2007, which failed to inspire a single report.⁷¹

SENSITIVE INFORMATION ON LOST, STOLEN, OR MISSING LAPTOPS WAS NOT PROTECTED

Though the loss of 418 ATF laptop computers represents a considerable financial cost to taxpayers, the fact that many of these laptops contained accessible sensitive or classified information is even more troubling. How much classified information was contained on these laptops is unclear since “ATF did not even know whether most of its lost, stolen, or missing laptop computers contained sensitive or classified information.”⁷² Of the 53 computers reported to ATF Internal Affairs, only six included reports for DOJ’s Computer Emergency Response Team regarding the computer’s content. While these reports indicated that at least some type of inquiry was made into what content 20 of the 53 laptops had, ATF did not document what data was contained on 95 percent of the lost, stolen, or missing laptop computers (398 of 418).

The IG found that several of these lost computers had sensitive information that was not encrypted. Since May 2007, efforts to encrypt ATF laptops with sensitive information have not been entirely successful. Five of eighteen of ATF’s classified laptops tested in 2008 were not encrypted. These five laptops were also excluded from the list forward to DOJ of all ATF classified laptop computers.⁷³

ATF did not maintain adequate documentation for disposed laptop computers and did not ensure that it had cleared computer hard drives prior to disposal, even though ATF policy requires such documentation. The property custodian must ensure that any computer disposed of has a cleared memory drive and a Certificate of Data Clearing. Of 116 disposed laptop computers tested by the IG, only four had ATF certificates providing that the hard drive had been cleared.

ATF PLAGUED BY POOR INVENTORY MANAGEMENT

According to the IG, ATF maintained inaccurate and incomplete records in its property management system, and did not regularly update the system required by ATF’s property management policy.

⁷¹ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

⁷² James Vicini, “Audit shows many missing weapons at U.S. agency,” September 17, 2008, *Reuters*, <http://www.reuters.com/article/domesticNews/idUSN1745432720080917>.

⁷³ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

“ATF kept many items on the active property list even though it no longer had the property... Of the 1,316 items we verified in the Atlanta and Washington Field Divisions, we found that 217 (16 percent) had an incorrect user, incorrect location, or both in the property management system record, or the item was not included in the property management system at all.”⁷⁴

ATF policy also requires that on or before an employee’s last day of employment, an ATF supervisor or other designated official is required to collect property issued to the employee, including weapons, ammunition, and laptop computers. This ATF individual is required to complete and sign a separation checklist, and provide copies to both the employee and the personnel office. Out of a sample of 30 former employees, the IG found that ATF could only provide for six of the required 30 separation checklists. Even the six checklists that were provided did not contain information specifying what property was returned by the former employee.

The IG also reported that ATF continues to lack acceptable ammunition inventory practices. In a sample of 20 ATF field offices, nine did not maintain the required perpetual inventory records for ammunition. None of these field offices submitted annual ammunition inventories to ATF headquarters, as required by ATF policy. Six of the other eleven field offices had records with significant inaccuracies in all but one type of ammunition, including records for one caliber ammunition that undercounted 478,400 rounds. When trying to trace 12 ammunition shipments to eight locations, the IG was unable to do so and concluded that five of the eight locations did not even keep ammunition inventories.

While ATF has admitted that this IG report accurately exposes several important deficiencies⁷⁵ and has agreed to most of the IG’s recommendations, it is not entirely clear whether or not any new ATF policies will be adequately enforced. The IG report demonstrated that despite certain ATF and DOJ policies, ATF acted with impunity in its noncompliance.

For example, “ATF staff did not follow established policy to report many lost, stolen, or missing weapons and laptop computers to ATF Internal Affairs, investigate losses, or enter reports of lost, stolen, or missing weapons into NCIC [National Crime Information Center].”⁷⁶

Even while the Inspector General was finalizing his report in July 2008, ATF failed to explain a number of discrepancies, including:

- Why 13 (17 percent) of the 76 weapons lost, stolen, or missing were not reported to ATF Internal Affairs as required;

⁷⁴ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2008, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

⁷⁵ “ATF Response to the OIG Audio of ATF Controls Over Firearms, Laptop Computers and Other Sensitive Property,” ATF Press Release, September 17, 2008, http://www.atf.gov/press/2008press/091708atf_response_to_oig.pdf.

⁷⁶ U.S. Department of Justice Office of the Inspector General, “The Bureau of Alcohol, Tobacco, Firearms and Explosives’ Controls Over Its Weapons, Laptop Computers, and Other Sensitive Property,” Department of Justice, September 2009, <http://www.usdoj.gov/oig/reports/ATF/a0829/final.pdf>.

- Why 5 of the 76 weapons lost were not entered into the National Crime Information Center (NCIC) as required by ATF;
- Why 91 laptop losses were not reported to DOJ; and
- Why no documentation from any ammunition inventories could be found.

Were such a scenario to occur at a federal firearm license (FFL) dealer, serious consequences would ensue. In general, FFLs are subject to a “three strikes and you’re out” policy. If an FFL could not account for even one gun, that would be the first strike. However, according to ATF regulations, “Whenever the Director of Industry Operations has reason to believe that a licensee has willfully violated any provision of the Act or this part, a notice of revocation of the license, ATF Form 4500, may be issued.”⁷⁷ In short, licensees run the risk of license revocation even before three strikes.

By law, FFLs are required to “maintain in a bound volume ... records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm.” Additionally, “Each licensee shall report the theft or loss of a firearm from the licensee’s inventory or collection, within 48 hours after the theft or loss is discovered, to the Attorney General and to the appropriate local authorities.”⁷⁸

For falsely representing their inventory, dealers could be charged with a felony. Any dealer who “knowingly makes any false statement or representation . . . shall be fined, . . . imprisoned not more than five years, or both.”⁷⁹ ATF regulations indicate this fine is to be no greater than \$1,000 and the prison sentence no longer than one year.⁸⁰ Dealers could also be charged with a misdemeanor. “Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed . . . shall be fined under this title, imprisoned not more than one year, or both.”⁸¹

Despite these extensive requirements placed all federal firearm license dealers, the ATF, tasked with enforcing such laws, has demonstrated it is incapable of meeting the same standard.

These discrepancies further emphasize the need for Congress to take its constitutional oversight responsibility seriously. Though oversight and the appropriations process Congress can ensure these proposed changes will have their desired results. It is unacceptable for the agency tasked with preventing the illegal purchase and possession of firearms, possibly to contribute to the black market of untracked and unregistered firearms.

In response to the IG report, ATF agreed fully or partially with the following Inspector General recommendations:

⁷⁷ 27 CFR 478.73

⁷⁸ 18 U.S.C. 23(g)(6)

⁷⁹ 18 USC 924(a)(1)

⁸⁰ 27 CFR 478.128

⁸¹ 18 USC 924(a)(3)

1. To ensure each weapon and laptop loss is reported to ATF's Material Management Branch;
2. To ensure that each lost ATF item is reported to ATF Internal Affairs with the report of survey and other information needed to conduct an investigation;
3. To implement a written policy for reporting ammunition losses to ATF Internal Affairs;
4. To implement procedures to determine the contents of missing laptop computers;
5. To require that missing laptops and weapons are entered into the National Crime Information Center (NCIC);
6. To locate or report as missing all items not found during the audit;
7. To ensure all laptop computers are encrypted;
8. To ensure the reports identifying laptop computers authorized to process classified information are submitted to DOJ in a timely fashion;
9. To ensure the required semiannual reports identifying lost, stolen, or missing weapons and laptop computers are submitted to DOJ in a timely fashion;
10. To ensure ATF submits reports summarizing the loss of laptop computers in a timely manner to DOJ;
11. To document all disposed property and data clearing of disposed laptops, and update property records to reflect these changes;
12. To develop procedures that ensure separated employees return all ATF property before they leave ATF; and
13. To enforce current requirements to perform annual inventories of ammunition and maintain perpetual inventory systems.

The IG also recommended updating the property management system to ensure that accurate and complete weapons and laptop records are maintained. ATF disagreed with this recommendation because it believes its current system is adequate but that more enforcement is needed for pre-existing ATF policy. The IG, though, reported that "ATF's financial system is not integrated with its property management system and the two systems are not reconciled." Requiring that these systems be reconciled on a daily basis or integrated should help ATF maintain more accurate records and help them quickly identify missing weapons and laptops.

Another identified issue was that the leased laptop computers are not entered into the financial system and cannot be reconciled with the property management system. Even though leasing a computer for three years does not give ATF permanent ownership, this practice should still be viewed as a financial acquisition of ATF property and included in the financial system. This practice will provide an additional check on ATF laptop records.

Finally, appropriations for ATF have increased by 86 percent since FY1999 (\$541.6 million to \$1.01 billion in FY2008). The number of employees has increased by 23 percent (from 3,969 to 4,880). Congress should exercise oversight and withhold appropriations if ATF fails to achieve comparable levels to the FBI and DEA for weapons and laptop computer losses. By requiring an annual report to be presented to Congress on this issue, Congress will have the necessary information to make an informed decision.

RECOMMENDATIONS

- Congress should require ATF property management and financial systems be reconciled on a regular basis or integrated to ensure ATF maintains more accurate records and quickly identifies missing weapons and laptops.
- ATF laptop leases should be entered into the financial system as an additional way to keep accurate records of ATF sensitive property;
- ATF should provide an annual report regarding the amount of firearms, ammunition, and laptop losses.
- ATF appropriations should be contingent on the completion of this report and improvements in reporting and preventing losses.

HIGHLIGHTS: DOJ SPENDS OVER \$312 MILLION ON CONFERENCES

Includes \$4 Meatballs, Congressional Training Sessions in Hawaii, and a Gang Prevention Event at a Palm Springs, Waldorf-Astoria Resort

The Department of Justice (DOJ) spent at least \$312 million over seven years on conference attendance and sponsorship. In 2006, the most recent year for which figures are available, the agency sent 26,000 employees (one fourth of its total workforce) to conferences and spent \$46 million in the process.⁸²

If DOJ had chosen to hire attorneys, instead of paying \$46 million for conference travel in 2006, up to an additional 416 lawyers could have been helping to investigate and prosecute federal crimes. If DOJ took its seven-year, \$312 million conference budget and instead hired attorneys, the nation could have been represented by an additional 2,827 lawyers who could have been hired for one year, or 403 attorneys who could have been hired to serve the full seven years.⁸³

Yet, instead of hiring more lawyers to prosecute federal crimes, taxpayers paid for airfare, hotel rooms, and food for DOJ employees to attend conferences — 2,199 of them in 2006 alone.⁸⁴ While some of the DOJ-attended conferences were likely necessary and legitimate expenditures, others might not pass a taxpayer-accountability test.



One questionable DOJ expenditure was the Bureau of Prisons (BOP) spending \$33,500 to send 15 employees to a 2006 “Congress Seminar” in Honolulu, Hawaii.⁸⁵ While the Bureau of Prisons does have a federal prison facility on that particular Hawaiian island, the accommodations at the conference’s Hilton Hawaiian Village Beach Resort and Spa likely bore little resemblance to the federal jail cells nearby.⁸⁶ At least five

⁸² DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, pdf page 11, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711. DOJ FY 2006 Resource Information, 205,505 DOJ employees as of September 30, 2006, <http://www.usdoj.gov/ag/annualreports/pr2006/P1/p05.pdf>.

⁸³ “Experienced Attorney, 2007 Annual GS Salary Range for Washington, D.C. Area,” U.S. DOJ webpage on Salaries, Promotion, and Benefits, <http://www.usdoj.gov/oarm/arm/hp/hpsalary.htm>, accessed August 2008. Calculations based on published DOJ figures which show “experienced attorneys” in the D.C. area with at least four years of experience would earn between \$110,363 and \$143,471 annually. Using the lower end of this pay scale, \$46 million would pay the salaries of 416 attorneys, or 320 could be hired at the higher end of the pay scale. Similarly, using the seven-year conference spending total of \$312 million, 2,827 attorneys with four years or more of experience could have been hired for \$100,363 or 2,174 attorneys at the higher end of the pay scale. The D.C.-area salaries used in these calculations represent a higher salary level due to a locality pay calculation which takes cost of living into consideration. DOJ could have hired even more experienced attorneys if they were to work in areas outside of D.C.

⁸⁴ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, pdf page 11, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

⁸⁵ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, line 427, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711; Federal Asian Pacific American Council (FAPAC) 2006 conference information, <http://www.fapac.org/htdocs/conference/2006/index.php>, accessed November 2007.

⁸⁶ Federal Asian Pacific American Council (FAPAC) 2006 conference information, <http://www.fapac.org/htdocs/conference/2006/index.php>, accessed November 2007.

employees of other DOJ agencies, including one from the “library staff,” joined the BOP event goers at this Honolulu conference for an additional taxpayer cost of over \$11,000.⁸⁷ Though the event’s organizers billed it, in part, as a **congressional seminar**, the Hilton Hawaiian Honolulu is over 4,500 miles from the U.S. Congress.

It is not just the locations that tend to be lavish, but sometimes it is the food. The DOJ Inspector General (IG) found that that one Community Oriented Policing Services (COPS) conference served meatballs costing \$4 each, as part of a \$60,000 networking reception that also included butterfly shrimp and coconut lobster skewers. Another \$60,000 was spent on cotton candy, popcorn, caramel apples, ice cream, and licorice at a four-day, DOJ-sponsored “Weed and Seed” conference in 2005 — a conference focused on anti-gang initiatives. The festival food was part of a reception held to announce conference video and poster award winners.⁸⁸ Another \$13,000 was spent on cookies and brownies for the over 1,500 conference goers at the COPS event.⁸⁹



When surf and turf is not on the menu, learning how to lobby yourself might be. Twenty-eight employees from four different DOJ offices spent over \$42,000 to attend a women’s conference with a group that works by “influencing Congressional and Administration actions.”⁹⁰ It is not clear why Administration employees needed to attend a conference on the **taxpayers’ dime to learn how to influence themselves**.

It is similarly unclear how a luxury resort ended up as the preferred location to discuss gangs. When the average American thinks about a conference on gang resistance, the Waldorf-Astoria Resort in Palm Springs is probably not the first locale that comes to mind. But, that was the location chosen for a 2006 DOJ-sponsored Gang Resistance Education and Training Program conference, which cost taxpayers at least \$278,000. In addition to those direct costs, DOJ grantees were notified that **federal gang resistance funds could be used for travel, lodging and meals**.⁹¹

These and others featured below in the oversight report are just a snapshot of the thousands of conferences DOJ recently attended.

⁸⁷ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, lines 895, 1225, 1241, 1484, 1503, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711;

“Library staff” was an additional notation in the non-electronic version submitted to Senate investigators, line 1519, page 43.

⁸⁸ “Department of Justice Conference Expenditures,” Department of Justice Office of the Inspector General Audit Division, Audit Report 07-42, September 2007, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

⁸⁹ “Department of Justice Conference Expenditures,” Department of Justice Office of the Inspector General Audit Division, Audit Report 07-42, September 2007, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

⁹⁰ Federally Employed Women’s website, <http://www.few.org/history.asp>; DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

⁹¹ G.R.E.A.T. Conference website, notice to grantees, <http://conference.great-online.org/ConferenceOverview.aspx>.

DEPARTMENT OF JUSTICE (DOJ) SPENT AT LEAST \$46 MILLION IN ONE YEAR FOR CONFERENCES

“Conference participation by employees of the Department of Justice is scrutinized by the appropriate supervisory levels, weighed against competing resource needs for overall component operations, ... and reported annually to the Congress as required in legislation and report language. **These mechanisms have been put in place to assure our citizens that DOJ resources are efficiently and effectively spent to further the Department’s mission and to foster national priorities for law enforcement and public safety**” (emphasis added).

—*Statement of Lee J. Lofthus, Acting Assistant Attorney General for Administration, U.S. Department of Justice, Before the Senate FFM Subcommittee Hearing, September 14, 2006*⁹²

In fiscal year 2006, the agency received over \$22 billion in taxpayer funding to perform its mission.⁹³ At least \$46 million of that went to sponsor or attend various conferences around the country and around the world. How closely DOJ conference spending was aligned with fulfilling the agency mission is something congressional investigators sought to discover through various data requests and oversight hearings over the last several years. This oversight effort showed that, at the time, DOJ was unable to accurately report conference expenditures, and it exposed some questionable DOJ attendance and sponsorship of certain conferences.

DOJ DOES NOT KNOW WHAT IT SPENDS ON CONFERENCES OR HOW MANY EMPLOYEES ARE ATTENDING THEM

The plain and simple truth is that DOJ does not know how much it spends annually on conferences. Despite two separate efforts to report conference spending to the Senate, including revising upward previously reported expenditures by almost \$100 million, the DOJ conference totals are still completely unreliable and very likely inaccurate — possibly off by as much as tens of millions of dollars.

After DOJ reported to the Senate its supposed conference expenditures from fiscal years 2005 and 2006, the agency’s Inspector General (IG) conducted an audit on the ten most expensive DOJ-sponsored conferences. The IG auditors found wide discrepancies between actual conference costs and what DOJ previously reported to Congress.⁹⁴

⁹² Statement of Lee J. Lofthus, Acting Assistant Attorney General for Administration, U.S. Department of Justice, before the Senate Federal Financial Management Subcommittee hearing, September 14, 2006, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=a70419ee-0f53-491a-9c39-80aeb1d84dd6.

⁹³ In FY06 DOJ received \$22.1 million in appropriated funds, according to the DOJ Summary of Budget Authority by Appropriation, http://justice.gov/jmd/2008summary/pdf/022_budget_authority.pdf.

⁹⁴ “Neither the sponsoring component nor the total DOJ cost for each event reconciles to the corresponding cost reported to and used by JMD [DOJ Justice Management Division] for its FY 2005 and 2006 conference expenditure lists submitted to the Subcommittee,” according to the DOJ Inspector General report “Department of Justice Conference Expenditures,” Audit Report 07-42 September 2007, page 12, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

In one instance, DOJ reported to the Senate that it spent over \$567,000 to send at least 75 employees to one 2006 COPS conference in Washington, DC.⁹⁵ The IG report noted that in fact the agency spent \$525,000 and sent 140 employees to this COPS conference. In other words, in its response to congressional inquiry, the agency misstated over \$40,000 in costs and underreported actual employee attendance by almost 50%.⁹⁶

While Senate oversight investigators believe DOJ’s reported numbers to be inaccurate and likely underestimated, based on what the agency did report, it spent approximately \$312 million on conferences between 2000 and 2006. The reported annual conference expenditure during that period at one point grew by over 40% (from \$34 million in 2000 to nearly \$58 million in 2004) only to shrink slightly in 2006 to \$46 million.

In 2006, DOJ sent 26,164 employees to 2,199 conferences, according to information provided to Senate oversight investigators.⁹⁷ The agency had over 105,000 employees that fiscal year, which equates to 25 percent of all its employees attending at least one conference.⁹⁸

It is worth noting that, even prior to the IG report, DOJ’s own reporting to the Senate indicated an inability to track conference expenditures. The agency first submitted year-by-year conference expenditure totals to the Senate in 2005 and then in late 2006, it submitted revised totals which, in one case, increased the reported FY 2000 annual conference expenditure by more than \$16 million (from \$17.5 million to \$34.3 million).

The Drug Enforcement Agency’s response to Senate investigators listed only three conferences, but also included almost \$3 million in expenditures for what was labeled “DEA unidentified conferences.”⁹⁹ A footnote at the end of DOJ’s submission reads, “DEA provided the top three costing conferences. However[,] DENS Financial System is currently unable to capture specific information on each conference attended; they are moditying [sic] the system to capture this information in the future.”

**DOJ Reported Conference Spending
2000-2006**

Fiscal Year	Amount Reportedly Spent by DOJ
2000	\$34,269,823
2001	\$33,789,624
2002	\$47,008,880
2003	\$52,662,084
2004	\$57,980,001
2005	\$40,217,283
2006	\$45,944,001
Total	\$311,871,696

⁹⁵ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, line 438,

http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711. DOJ reported it spent \$525,000 in fiscal year 2005 funds to send an undetermined number of employees and \$42,131 in fiscal year 2006 funds to send 75 employees to the conference.

⁹⁶ DOJ response to congressional inquires from the Senate Subcommittee on Federal Financial Management 2006-2007, page 13.

⁹⁷ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, pdf page 11,

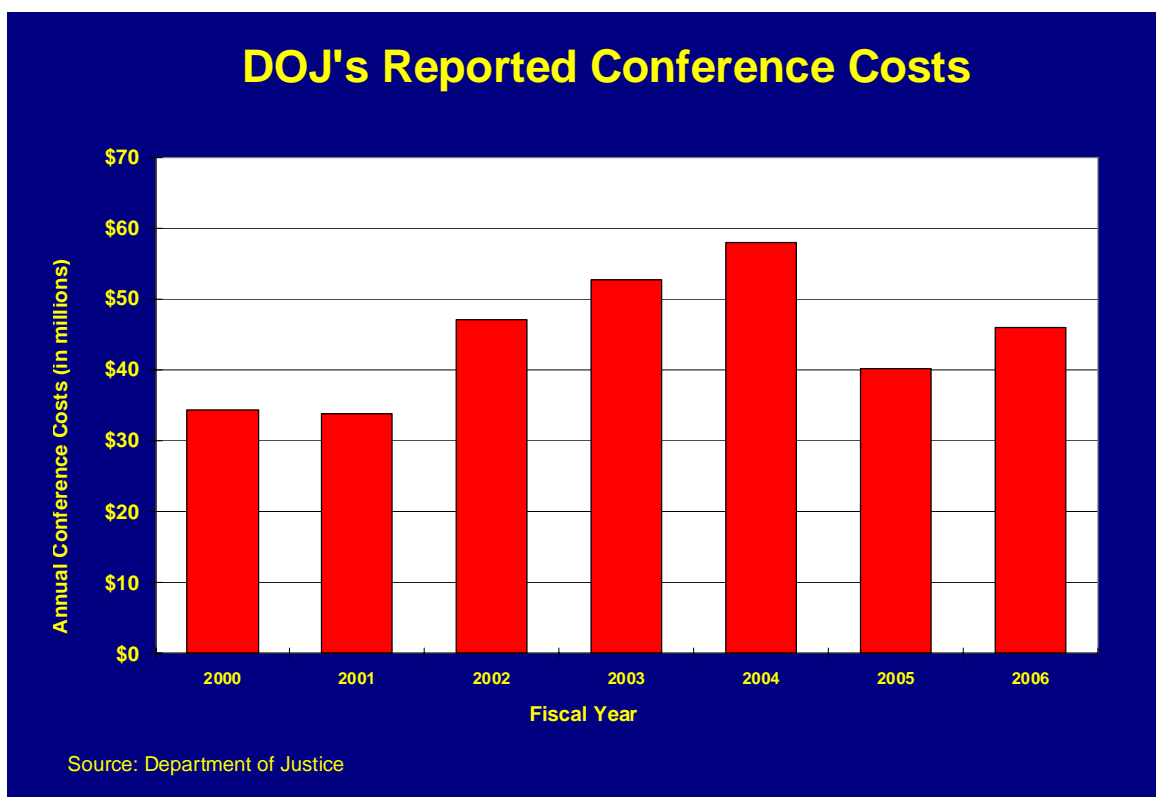
http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

⁹⁸ DOJ FY 2006 Resource Information, 205,505 DOJ employees as of September 30, 2006,

<http://www.usdoj.gov/ag/annualreports/pr2006/P1/p05.pdf>.

⁹⁹ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, page 19 and footnote page 66,

http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.



Few accountants would survive in the private sector if they listed \$3 million in unknown costs on a company's books. Taxpayers deserve more accountability for the dollars expended and it should not take a congressional inquiry to expose these deficiencies.

DOJ NOT CAPABLE OF DETERMINING ACTUAL CONFERENCE COSTS, ACCORDING TO AUDIT

In September 2007, the DOJ's Office of Inspector General audit of the agency's conference spending found, "The DOJ does not maintain a single financial system capable of providing the costs of DOJ conferences. As a result, when asked to provide conference expenditures to Congress, DOJ components did not uniformly report these expenditures. Our audit found that some components reported budgeted, awarded, and estimated conference costs instead of actual expenses, while others did not uniformly include travel or personnel costs."¹⁰⁰

Furthermore, the auditors noted "Federal agencies have considerable discretion in deciding how much to spend on a conference" and "some of the incurred expenses, while allowable, appear to have been extravagant."¹⁰¹

¹⁰⁰ "Department of Justice Conference Expenditures," Department of Justice Office of the Inspector General Audit Division, Audit Report 07-42, September 2007, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

¹⁰¹ "Department of Justice Conference Expenditures," Department of Justice Office of the Inspector General Audit Division, Audit Report 07-42, September 2007, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

DOJ TRAVEL COSTS INCREASED IN 2007

According to news reports, the Justice Department spent \$18 million more on travel costs in 2007 than in 2006, spending \$465 million in 2007, up from \$447 million the year before.¹⁰² While these costs are not exclusive to conference travel, such travel likely contributed to the increased costs, if historical conference spending trends continued. This spending increase placed the Justice Department third overall among government agencies for the highest travel spending costs, behind only the Department of Defense and the Department of Homeland Security.¹⁰³



INVESTIGATIONS FIND DOJ CONFERENCE SPENDING TO BE EXCESSIVE AND “EXTRAVAGANT;” SENATOR ASKS, “DO COOKIES, BROWNIES, AND SWEDISH MEATBALLS FOR CONFEREES TRUMP DOJ PROSECUTION NEEDS?”

In September 2007, the DOJ’s Office of Inspector General reported the agency spent taxpayers’ funds for \$4-a-piece Swedish meatballs, along with butterfly shrimp and coconut lobster skewers, for a 2006 conference it hosted.¹⁰⁴ These items were served at taxpayer expense at a Community Oriented Policing Services (COPS) conference “networking” session at a catering cost of more than

\$60,000.¹⁰⁵

Another \$60,000 was spent on cotton candy, popcorn, caramel apples, ice cream, and licorice at a four-day, DOJ-sponsored “Weed and Seed” anti-gang conference in August 2005, according to the IG audit. The taxpayers footed this bill for a reception held to announce conference video and poster award winners.¹⁰⁶

The IG report noted, “We believe that serving such items at an event gives the appearance that the reception was intended more for social rather than purposes directly related to the objectives of the Weed and Seed Program.”

The same conference billed taxpayers \$13,000 for cookies and brownies for 1,542 people and \$25 per DOJ employee for an “at-the-movies” snack of candy, popcorn, and soft drinks.¹⁰⁷



¹⁰² “Defense continues to lead the pack in federal travel spending,” *Government Executive*, August 15, 2008, http://www.govexec.com/story_page.cfm?articleid=40760&dcn=todaysnews.

¹⁰³ “Defense continues to lead the pack in federal travel spending,” *Government Executive*, August 15, 2008; “Federal travel tab tops \$14B,” *The Federal Times*, September 1, 2008.

¹⁰⁴ “Department of Justice Conference Expenditures,” Department of Justice Office of the Inspector General Audit Division, Audit Report 07-42, September 2007, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

¹⁰⁵ “Department of Justice Conference Expenditures,” DOJ IG Audit Report 07-42, September 2007.

¹⁰⁶ “Department of Justice Conference Expenditures,” DOJ IG Audit Report 07-42, September 2007.

¹⁰⁷ “Department of Justice Conference Expenditures,” DOJ IG Audit Report 07-42, September 2007; “Snacks Take Big Bite Out of DOJ Budget,” *Washington Post/Associated Press*, September 14, 2007.

Despite these pricey snacks and meals, the IG auditors found that three-quarters of the employees who attended the conferences **submitted daily reimbursement costs to DOJ for meals while traveling, effectively double-dipping into government funds.**¹⁰⁸

Auditors “found that using appropriated funds to pay for expensive meals and snacks at certain DOJ conferences, while allowable, appear to have been extravagant.”¹⁰⁹

The same year as the \$4-meatball conference, *The Washington Post* reported “the D.C. [federal prosecutor’s] office was one of the 19 largest federal prosecutors’ offices that were required by the Justice Department to absorb budget cuts ranging from 10 to 15 percent.”¹¹⁰

A recently released study cites a large decrease in the number of federal crimes prosecuted in D.C. in recent years. *The Washington Post* reported that the number of federal prosecutors assigned to U.S. District Court in Washington, 110 during a high point in 2003, was cut to 89, and reduced still further in 2007 to 76.

The Post also noted, “Justice Department prosecutors have long felt the strain as law enforcement resources shifted toward national security after the Sept. 11, 2001, terrorist attacks.”

While D.C. federal prosecutors argue they are spending their time on bigger more complicated cases and merely counting case load statistics does not give an accurate view of their efforts, taxpayers have to wonder if the complicated and more basic federal charges (such as drug and gun crimes) could be prosecuted at higher rates simultaneously if funds were not diverted to non-essential conference spending.

BUREAU OF PRISONS LEARNING ABOUT CONGRESS, AS FAR AWAY FROM CAPITOL AS POSSIBLE

Even federal employees sometimes need a refresher on how Congress works, but spending \$33,500 to send 15 Bureau of Prisons (BOP) employees to a congressional seminar conference at the Hilton Hawaiian Village Beach Resort and Spa in Honolulu might lead to fair charges that Congress is not the only federal body wasting taxpayers’ dollars.¹¹¹ The 2006 event, the 21st Annual Congressional Seminar/National Leadership Training Conference, was hosted by the Federal Asian



Hilton Hawaiian Village Resort

¹⁰⁸ “Department of Justice Conference Expenditures,” DOJ IG Audit Report 07-42, September 2007.

¹⁰⁹ “Department of Justice Conference Expenditures,” DOJ IG Audit Report 07-42, September 2007.

¹¹⁰ “D.C. Sees Sharp Drop In Federal Prosecution Office Says It Is Making the Most Of Slim Resources,” *The Washington Post*, October 21, 2007.

¹¹¹ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, line 427, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711; FAPAC 2006 conference information, <http://www.fapac.org/htdocs/conference/2006/index.php>, accessed November 2007.

Pacific American Council (FAPAC). Besides being far different from the average prison environment, the congressional seminar at this Honolulu resort was over 4,500 miles from Congress itself.



The BOP federal employees likely saw some of their federal colleagues who also made the same trip courtesy of taxpayers, including:

- 6 USDA employees at a cost of \$13,475;
- 3 FBI employees at a cost of \$8,921; and
- 2 DOJ employees, including one from the “library staff,” at a cost of \$2,367.¹¹²

DOJ SUPPORTED A 2007 CONVENTION HOSTED BY A GROUP LINKED TO TERRORISM

From August 31 to September 3, 2007, the Justice Department co-sponsored and sent official DOJ representatives to a convention held by the Islamic Society of North America (ISNA) — a named unindicted co-conspirator in a federal terrorist funding case.¹¹³



Hamas Fighter (Reuters)

This was not the first year that DOJ expended federal funds for this organization’s annual gathering. Justice spokesman Erik Ablin confirmed that “the division has had tables at the convention in previous years.”¹¹⁴

ISNA was one of more than 300 unindicted co-conspirators named in the case against the Holy Land Foundation, whose top officers are accused of raising money for the Palestinian terrorist organization Hamas.

“Justice lawyers have objected to the affiliation with ISNA, fearing it [would] undermine the case against the Holy Land Foundation for Relief and Development in Dallas,” according to a September 2007 news report.¹¹⁵

¹¹² DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, lines 895, 1225, 1241, 1484, and 1503, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711;

“Library staff” was an additional notation in the non-electronic version submitted to Senate investigators line 1519, page 43.

¹¹³ 44th Annual ISNA Convention, Theme: Upholding Faith, Serving Humanity,

<http://www.isna.com/Conferences/pages/Annual-Convention.aspx>, accessed November 2007; “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007,

<http://www.washingtontimes.com/apps/pbcs.dll/article?AID=/20070827/NATION/108270070/1002>. The first case ended in a mistrial, “Judge declares mistrial in Holy Land Foundation case: Jurors unable to reach unanimous decision on most counts,” *The Dallas Morning News*, October 22, 2007,

<http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/102207dnmetholyland.1878fd716.html>. DOJ is retrying the case and it was set to begin in Texas on September 15, 2008. ISNA is once again listed as a co-conspirator of the Holy Land Foundation.

¹¹⁴ “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007,

<http://www.washingtontimes.com/apps/pbcs.dll/article?AID=/20070827/NATION/108270070/1002>.

¹¹⁵ “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007.

“There is outrage among lawyers that the Department of Justice is funding a group named as a co-conspirator in a terrorist financing case,” said a Justice lawyer who spoke to *The Washington Times*.

According to an e-mail from Susana Lorenzo-Giguere, acting deputy chief of DOJ’s Voting Rights Division, DOJ sponsorship involved sending government lawyers to man a booth for the 2007 Labor Day weekend event in Illinois.

“This is an important outreach opportunity, and a chance to reach a community that is at once very much discriminated against, and very wary of the national government and its willingness to protect them,” Mrs. Lorenzo-Giguere said in an e-mail to other DOJ employees. “It would be a great step forward to break through those barriers. And Chicago is lovely this time of year,” Mrs. Lorenzo-Giguere wrote.¹¹⁶

The Justice Department declined to say how much the sponsorship would cost. A DOJ lawyer who took issue with the Department’s support of the convention said, “This will cost thousands of dollars” and that “This is just staggering, it’s outrageous.”¹¹⁷

Of concern to DOJ lawyers was the September 1, 2007 morning session entitled, “Ending U.S. Sponsored Torture: A Concern for All People of Faith.” According to the final ISNA convention program:

“The extensive news coverage by the U.S. and international media sources makes it all too clear that the **grim abuses in Abu Gharib, Guantanamo Bay**, and the sending of detainees to secret prisons around the world that are known to torture during interrogations, **are not isolated incidents, but rather constitute policy of the U.S. government.** ... **This session will describe the nature of U.S. sponsored torture**, the effects of torture on its victims, the efforts of the U.S. religious community, and what you can do to help end U.S. sponsored torture” (emphasis added).¹¹⁸

Under the federal criminal code, torture is illegal and punishable by fine or imprisonment (up to life in jail) or even by death, if the torture results in someone’s death.¹¹⁹

The Justice Department is responsible for enforcing the federal law against torture and for signing off on the legality and constitutionality of interrogation techniques, and yet the Department sponsored an event that was accusing the U.S. of having an official government policy of abuse and “sponsored torture.”

According to news reports, a second lawyer responded to Mrs. Lorenzo-Giguere’s e-mail questioning the participation and said it “seems like an odd time for one part of DOJ to lend credence and visible support to ISNA at the same time DOJ prosecutors will be called on to

¹¹⁶ “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007.

¹¹⁷ “U.S. sponsors Islamic convention,” *Washington Times*, August 27, 2007.

¹¹⁸ Final ISNA convention program, <http://www.isna.com/assets/documents/upholdingfaithservinghumanityprogramv6.0.pdf>, accessed December 2007.

¹¹⁹ 18 U.S.C. §2340.

defend their decision to name ISNA as a conspirator. ... Presumably the prosecutors have determined that they might need that testimony admitted; I hope we don't undermine their position."¹²⁰

While the original case against the Holy Land Foundation ended in a mistrial in October 2007, DOJ is retrying the case and opening arguments began in Texas on September 22, 2008.¹²¹ ISNA is once again listed as a co-conspirator of the Holy Land Foundation.¹²²

The Senate Responded but the House & Senate Appropriators Removed Prohibitions on DOJ Support for Terrorist-Related Conferences:

As noted above, the Senate passed language in the Fall of 2007 to limit DOJ conference funding for certain types of organizations:¹²³

SEC. 220. LIMITATIONS ON FUNDING FOR CERTAIN CONFERENCES.

.... No funds appropriated under this Act may be used to support a conference sponsored by any organization named as an unindicted co-conspirator by the Government in any criminal prosecution.

Yet, in the final appropriations bill for fiscal year 2008 that was signed into law, the House and Senate Appropriations Conference Committee members dropped the Senate-passed language that prohibited conference funding for certain types of organizations, such as those linked to terrorism.¹²⁴

Despite Absence of Legal Prohibition, DOJ Opts Not to Sponsor or Attend Conference in 2008

In response to congressional inquiry, DOJ reported that the agency was not sponsoring the Islamic Society of North America's 2008 convention, which began on August 26, 2008, nor was it sending any DOJ employees.¹²⁵ This is a positive development for those concerned about the nation's top law enforcement agency's previous financial support for unindicted co-conspirators.

PALM SPRINGS WALDORF-ASTORIA GETAWAY FOR DOJ GRANTEES

On July 25-28, 2006, the Department of Justice sponsored a four-day Gang Resistance Education and Training (G.R.E.A.T.) Program Conference in Palm Springs, California at a Waldorf-Astoria Collection resort. Six DOJ employees attended and the Department spent over \$278,000 on the event, though total cost to the taxpayers likely was significantly higher due to that fact that

¹²⁰ "U.S. sponsors Islamic convention," *Washington Times*, August 27, 2007,

<http://www.washingtontimes.com/apps/pbcs.dll/article?AID=/20070827/NATION/108270070/1002>.

¹²¹ "Judge calls mistrial in Islamic charity case," *Reuters*, October 22, 2007; "Delay to Holy Land Foundation retrial denied," *The Associated Press*, August 7, 2008, http://www.examiner.com/a-1526553~Delay_to_Holy_Land_Foundation_retrial_denied.html; "Opening Arguments Presented in Holy Land Foundation Retrial," KERA, Public Television and Radio for North Texas, September 22, 2008, http://publicbroadcasting.net/kera/news.newsmain?action=article&ARTICLE_ID=1371914§ionID=1.

¹²² "Groups Want Names Cleared in Holy Land Case," *New York Sun*, June 19, 2008, <http://www.nysun.com/national/groups-want-names-cleared-in-holy-land-case/80277/>.

¹²³ Amendment 3230, which passed the Senate without objection on October 4, 2007.

¹²⁴ H.R.2764, *Consolidated Appropriations Act, 2008*, signed into law on December 26, 2007 as Public Law No. 110-161.

¹²⁵ E-mail response from DOJ Legislative Affairs Office to the Office of Senator Tom Coburn, dated August 25, 2008.

grantees were encouraged to use federal grant money from the Office of Justice Programs to pay for travel, lodging, meals and incidentals.¹²⁶

DOJ advertised to grantees:

“Through funding provided by the Office of Justice Programs, Bureau of Justice Assistance, the conference registration fee is waived. You will only be responsible for expenses such as travel, lodging, and meals/incidentals. You may use G.R.E.A.T. grant funds for these other expenses.”¹²⁷



La Quinta Club & Resort, Palm Springs, California, site of a 2006 DOJ-sponsored gang resistance conference

Though the conference topic would likely raise few eyebrows, the average taxpayer might rightfully question its resort location.

According to the website of the La Quinta Club and Resort, it is a first-class meeting destination and vacation spot.¹²⁸

The self-proclaimed “legendary hideaway” features: 90 holes of the country’s best golf; 23 tennis courts (rated one of the “Top Ten U.S. Tennis Resorts”); 42 swimming pools; 52 hot tubs; 800 guest rooms; five restaurants; beautiful mountain and desert views; and a full spa which includes open air “Celestial showers” and “Death by Chocolate” full-body massages.¹²⁹ Whether or not any grantees billed incidentals, such as full-body chocolate massages, to the U.S. taxpayers could not be determined with information provided by DOJ.

DOJ EMPLOYEES ATTEND WOMEN’S CONFERENCE TO “INFLUENCE” CONGRESS AND AGENCY ACTIONS

In one year alone, 2006, DOJ reported it spent \$42,491 to send 28 employees from four separate offices to the Federally Employed Women’s (FEW) Conference in Atlanta. This annual conference appears on almost every federal agencies’ conference spending report, with taxpayers footing the bill for federal employees’ travel to and attendance at the FEW’s conference.

¹²⁶ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, line item 1639,

http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be7111.

¹²⁷ G.R.E.A.T. Conference website, Notice to grantees, <http://conference.great-online.org/ConferenceOverview.aspx>.

¹²⁸ La Quinta Resort website, <http://www.laquintaresort.com/>.

¹²⁹ La Quinta Resort website, <http://www.laquintaresort.com/>.

The FBI was the largest contingency of DOJ personnel sending 14 employees to the Atlanta conference at a cost of \$19,545. The COPS program, the International Criminal Police Organization (INTERPOL), and the U.S. Marshal Service also attended, with COPS spending over \$9,000 to send two employees and the U.S. Marshal Service spending over \$10,000 to send 11 employees.¹³⁰



Photo from FEW website

LEARNING HOW TO LOBBY THEMSELVES?

According to FEW's website, the group "is a membership organization working for the elimination of sexual harassment and the advancement of women in government."¹³¹ This goal, the group notes, will be "accomplished by ...**improving the quality of life for women by influencing Congressional and Administration actions** [...and] providing opportunities for professional growth through leadership development, education, mentoring, and networking" among other things (emphasis added).¹³²

FEW advertises it, "Offers Federal Women A Chance To Hone Their Leadership Skills, Get Their Views Heard On Capitol Hill." Another "advantage of joining FEW is its **vigorous advocacy for legislative reform** on important issues affecting women, including its new push for paid maternity leave" (emphasis added).¹³³

While there is nothing wrong with federally employed women using their First Amendment right to express their views to Congress, on their own time and with their own money, some might question whether DOJ needs to spend more than \$40,000 a year in taxpayer funds helping teach agency employees how to lobby and advocate for various and at times controversial legislation and regulations.

ATF SPENDS ALMOST \$5,000 IN TRAVEL TO LEARN ABOUT ... TRAVEL

From June 26-29, 2006 four Alcohol, Tobacco, Firearms and Explosives (ATF) employees traveled to Los Angeles for the National Travel Forum "a Star Studded Event!"¹³⁴ The 2006 event was entitled "Where the Travel Stars Shine" and according to DOJ records, ATF sent four employees to the event for a cost of \$4,807.¹³⁵

¹³⁰ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

¹³¹ Federally Employed Women's website, <http://www.few.org/history.asp>, accessed July 2008.

¹³² Federally Employed Women's website, <http://www.few.org/history.asp>, accessed July 2008.

¹³³ Fedmanager.com Newsletter, June 13, 2006, http://tools.isovera.com/organizations.php3?action=printContentItem&orgid=102&typeID=847&itemID=18571&User_Session=b433eb3533f461b6cbe9e68ad65d9c39, accessed October 2007.

¹³⁴ U.S. General Services Administration's "E-Gov Travel on the Move" newsletter-type document for federal employees, dated January 2006, http://www.gsa.gov/gsa/cm_attachments/GSA_DOCUMENT/etravel%20on%20the%20move%20qp%200106_R2-l-b2M_0Z5RDZ-i34K-pR.pdf.

¹³⁵ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, line 275, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

While the National Travel Forum (NTF) bills itself as “the premier government travel and relocation event ... to help government travel managers and others do their jobs more effectively,” it also appears the event lets vendors and conference planners have front row access to the federal managers with taxpayer money to spend:

“NTF offers attendees **opportunities to interact with policymakers from federal agencies who are involved with the regulations, operation, maintenance and scheduling of official travel** and to network with federal, state and local governments and private sector representatives” (emphasis added).¹³⁶

The organization that now runs the biennial NTF events said in a 2006 press release that it “represents over 2,700 corporate and government travel managers and travel service providers, who collectively manage and direct more than \$170 billion of expenditures within the business travel industry.”¹³⁷

In response to congressional inquiry, ATF reported it attended and/or sponsored 375 conferences in 2006 at a total cost to taxpayers of over \$4.9 million.¹³⁸

INSPECTOR GENERAL CONFERENCE IN D.C. SUBURB COSTS \$183,000

The Office of Inspector General in each agency has a crucial role of monitoring agency waste, fraud, and abuse. Conference expenditures have been a recent source of congressional attention as oversight investigations have shown agencies spending billions of dollars sending employees to conferences. While one DOJ IG management conference in 2005 might not have been at a luxurious resort, it does stand out for its high-dollar expenditure. Held in Crystal City, Virginia, a D.C. suburb, the 2005 IG management conference cost \$183,660 for 93 employees or \$1,974 per IG attendee.¹³⁹ Further details on the conference were not made available.

THE MILLION DOLLAR CONFERENCE



Another DOJ program dedicated to making communities safe drew the scrutiny of the agency’s Inspector General (IG) for spending over \$1.4 million on a 2006 conference.¹⁴⁰ According to the

¹³⁶ “National Travel Forum to become NBTA Event,” National Business Travel Association press release, dated June 29, 2006, <http://www.nbta.org/About/News/Releases2006/rls062906.htm>.

¹³⁷ “National Travel Forum to become NBTA Event,” National Business Travel Association press release, dated June 29, 2006, <http://www.nbta.org/About/News/Releases2006/rls062906.htm>.

¹³⁸ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, lines 17-393 total \$4,905,072, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

¹³⁹ DOJ October 31, 2005 report to Senator Coburn on FY2005 DOJ conferences, page 30.

¹⁴⁰ DOJ Inspector General report “Department of Justice Conference Expenditures,” Chart entitled “Conference Expenses by Cost Category,” Audit Report 07-42 September 2007, page vii, total PSN conference cost was \$1,434,375, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

IG's report, organizers of Project Safe Neighborhood's (PSN) 2006 conference in Denver, Colorado used taxpayer funds on the following:

- \$143,469 on microphones, video screens and other technical equipment;
- \$108,866 on food and drinks;
- \$638,371 on DOJ employee travel costs; and
- \$15,322 for "Signs and Door Items."¹⁴¹

The event, the anti-gun violence program's fourth conference, was attended by over 1,300 people, including 641 DOJ employees.¹⁴²

EMPLOYEES DOUBLE DIP ON TAXPAYER-FUNDED FOOD

Though the conference included taxpayer-funded food, 40 of 94 DOJ employee reimbursement vouchers spot checked by the Inspector General did not show deductions for any conference-provided meals. In other words, more than 40% of the employees who were randomly checked double billed the federal government for their food, collecting food per diem reimbursements in addition to having meals provided for them at the conference. The IG report concluded, "When DOJ attendees do not deduct such meals, the government effectively pays for the same meal twice. The high rate of improper meal deduction evidenced by our sample shows that adequate controls have not been implemented"¹⁴³

DOJ OMITTS \$500,000 CONFERENCE EXPENDITURE IN REPORT TO CONGRESS

In yet another confirmation that DOJ-provided conferences figures given to Congress were inaccurate, congressional investigators were not able to match the number of attendees or the cost of the PSN conference as listed in the IG report with information transmitted in response to congressional inquiry.¹⁴⁴ For example, DOJ told Congress it spent over \$940,000 on the Denver conference, while the Inspector General found the agency had actually spent \$1.4 million — a half-a-million dollar difference.

¹⁴¹ DOJ Inspector General report "Department of Justice Conference Expenditures," Audit Report 07-42 September 2007, page 12, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>; PSN press release, DOJ website, <http://www.psn.gov/press/06May03.html>.

¹⁴² DOJ Inspector General report "Department of Justice Conference Expenditures," Audit Report 07-42 September 2007, page 12, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>; PSN press release, DOJ website, <http://www.psn.gov/press/06May03.html>.

¹⁴³ DOJ Inspector General Report "Department of Justice Conference Expenditures," Audit Report 07-42 September 2007, Table 6-10, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

¹⁴⁴ Documents given in response to congressional inquiry indicate DOJ expenses for 2006 Project Safe Neighborhood totaled \$940,805. (See line item 477 COPS spent \$10,173; line item 546 CRM (Criminal Division) spent \$9,034; line item 319 ATF spent \$53,677; line item 1674 OJP-BJA (Bureau of Justice Assistance) spent \$864,110, line 1478 General Administration spent \$3,811.) DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn from the Senate Subcommittee on Federal Financial Management 2006-2007, http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711. The DOJ Inspector General report showed the same conference actually costing taxpayers \$1,434,375. "Department of Justice Conference Expenditures," chart entitled "Conference Expenses by Cost Category," Audit Report 07-42 September 2007, page vii, <http://www.usdoj.gov/oig/reports/plus/a0742/final.pdf>.

FBI ATTENDS FEDERALLY FUNDED WORKFORCE DISCRIMINATION CONFERENCE HELD AT CASINO RESORT, WHILE FEDERAL EEOC WORKFORCE DISCRIMINATION CASE PENDING AGAINST OWNERS

What better place to hold a federally funded conference on federal discrimination issues than at a Las Vegas casino hotel that was embroiled in an on-going lawsuit with the U.S. Equal Employment Opportunity Commission (EEOC) for employment discrimination?

In April 2005, the EEOC announced a federal employment discrimination lawsuit against Caesars Entertainment for allowing a group of kitchen workers to be “severely sexually harassed by supervisors for years at famed Las Vegas hotel/casino Caesars Palace” and for the “Caesars management illegally retaliat[ing] against employees for complaining about the abuse.” The EEOC alleged the sexual abuse had taken place over a five-year period and included supervisors fondling workers, “offering favorable treatment in exchange for sex,” and one supervisor “exposing himself” to workers.¹⁴⁵



While the case was still pending, in June 2006, the EEOC announced that its annual federal sector EXCEL (Examining Conflicts in Employment Law) conference would be held at none other than the same “famed” Caesars Palace from July 24-27, 2006.¹⁴⁶ Among the DOJ branches sending employees was the FBI, which sent 11 agents at a cost to taxpayers of \$25,895.¹⁴⁷



Caesars Palace

A little over a year later, the EEOC announced that Caesars Palace would pay \$850,000 to settle the sexual harassment and retaliation lawsuit filed by the EEOC.¹⁴⁸ The 2007 press announcement elaborated on the charges against Caesars Palace where male supervisors were alleged to have demanded and/or forced “female workers to perform sex with them under threat of being fired. Women, predominantly monolingual Spanish speakers, were forced to have sex in makeshift sex rooms. ... The EEOC also charged that management failed to address and correct the unlawful conduct, even though women complained about it. Further, the EEOC said, when workers complained about the unlawful conduct, they were retaliated against in the form of demotions, loss of wages, further harassment, discipline or discharge.”¹⁴⁹

¹⁴⁵ The U.S. Equal Employment Opportunity Commission Press Release, “Caesars Palace Subjected Class of Kitchen Workers to Sexual Harassment, EEOC Charges,” dated April 4, 2005, <http://www.eeoc.gov/press/4-4-05.html>, accessed December 2007.

¹⁴⁶ The U.S. EEOC Press Release, “EEOC ‘EXCEL’ Conference to Offer One-Stop Training on Federal Sector Discrimination Issues,” dated June 30, 2006, <http://www.eeoc.gov/press/6-30-06.html>.

¹⁴⁷ DOJ November 15, 2006, follow-up to questions for the record by Senator Coburn, lines 894 (9 employees for a cost of \$23,895) and 974 (2 employees for a cost of \$2,200), http://coburn.senate.gov/ffm/index.cfm?FuseAction=Files.View&FileStore_id=5562f9b6-d8eb-407b-be65-c935837be711.

¹⁴⁸ EEOC Press Release, “Caesars Palace to Pay \$850,000 for Sexual Harassment and Retaliation: Supervisors Forced Sex on Hispanic Female Workers, EEOC Charged,” dated August 20, 2007, <http://www.eeoc.gov/press/8-20-07.html>, accessed December 2007.

¹⁴⁹ EEOC Press Release, “Caesars Palace to Pay \$850,000 for Sexual Harassment and Retaliation: Supervisors Forced Sex on Hispanic Female Workers, EEOC Charged,” dated August 20, 2007, <http://www.eeoc.gov/press/8-20-07.html>, accessed December 2007.

CONGRESS RESPONDS: CONFERENCE TRANSPARENCY IS THE LAW

Senate-Passed Restrictions

In the wake of the Inspector General report, the Senate passed a provision in the fall of 2007 that, *if enacted*, would have capped total DOJ conference expenditures at \$15 million, prohibited conference funding to any organizations named as an unindicted co-conspirator by the federal government in any criminal prosecution, and required public transparency procedures for any conference expenditure above \$20,000.¹⁵⁰

In October 2007, Senator Coburn wrote to the congressional appropriators negotiating with the House of Representatives on the bill and noted that, “It is unconscionable that cookies, brownies, and meatballs are being funded over federal prosecutors’ offices, and by including the Senate-passed provision, we can help DOJ puts its priorities back on track.” Senator Coburn asked them to maintain the Senate-passed language in the final conference report stating, “Lavish food, conferences, and possible terrorist conspirators should not be recipients of limited DOJ funds.”¹⁵¹

Transparency Signed into Law

In the final appropriations bill for fiscal year 2008 that was signed into law, the House and Senate Appropriations Committee members included a rewritten provision on conference transparency, but dropped the Senate-passed language which would have capped total DOJ conference expenditures at \$15 million and also dropped the provision prohibiting unindicted co-conspirators from receiving conference funds.¹⁵² The transparency portion that was included in

¹⁵⁰ Amendment 3230, which passed the Senate without objection, on October 4, 2007.

LIMITATIONS ON FUNDING FOR CERTAIN CONFERENCES.

Notwithstanding any other provision of this Act, not more than \$15,000,000 of all funds made available to the Department of Justice under this Act, may be available for any expenses related to conferences, including for conference programs, travel costs, and related expenses. No funds appropriated under this Act may be used to support a conference sponsored by any organization named as an unindicted co-conspirator by the Government in any criminal prosecution.

Sec. 219. (a) The Attorney General shall submit quarterly reports to the Inspector General of the Department of Justice regarding the costs and contracting procedures relating to each conference held by the Department of Justice during fiscal year 2008 for which the cost to the Government was more than \$20,000.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter--

- (1) a description of the subject of and number of participants attending that conference;
- (2) a detailed statement of the costs to the Government relating to that conference, including--
 - (A) the cost of any food or beverages;
 - (B) the cost of any audio-visual services; and
 - (C) a discussion of the methodology used to determine which costs relate to that conference; and
- (3) a description of the contracting procedures relating to that conference, including--
 - (A) whether contracts were awarded on a competitive basis for that conference; and
 - (B) a discussion of any cost comparison conducted by the Department of Justice in evaluating potential contractors for that conference.

¹⁵¹ Letter from Senator Tom Coburn to Appropriators, dated October 2007.

¹⁵² Section 218 of the Consolidated Appropriations Act, 2008 (H.R.2764), signed into law on December 26, 2007 as Public Law No. 110-161:

the bill signed into law requires a yearly report on conferences that cost the federal government more than \$20,000 each. The report must contain a detailed statement of the costs of food and audio-visual services, and a description of how the conference contracts were awarded, such as whether or not it was a competitively bid contract.¹⁵³

The \$15 million conference limitation provision that was dropped by House and Senate appropriators would have saved \$31 million in 2008 that might otherwise have been spent on DOJ conferences and could have freed up funds in the agency's budget for higher-priority expenditures.¹⁵⁴

RECOMMENDATIONS

While DOJ officials will likely defend the Department's seven-year, \$312 million conference budget as statistically small in an agency with an over \$22 billion budget, taxpayer funds still could be put to better use. First and foremost, every conference should be readily defensible, on its face, to regular Americans in terms of topic, location, participants, and cost.

Based on this limited review of thousands of DOJ-attended and sponsored conferences, the time seems ripe for DOJ to scale back on conference costs, make some tough decisions, and set priorities.

SUGGESTED CONFERENCE JUSTIFICATION TEST

DOJ and other agencies should be sure that every conference attended by federal employees passes the following tests:

- Does the conference help further the Department's mission?
- Could the information provided at the conference be disseminated instead through a teleconference, the Internet, or scholarly publication subsequent to the conference?
- Is the location appropriate and justified?

Sec. 218. (a) The Attorney General shall submit quarterly reports to the Inspector General of the Department of Justice regarding the costs and contracting procedures relating to each conference held by the Department of Justice during fiscal year 2008 for which the cost to the Government was more than \$20,000.

(b) Each report submitted under subsection (a) shall include, for each conference described in that subsection held during the applicable quarter--

- (1) a description of the subject of and number of participants attending that conference;
- (2) a detailed statement of the costs to the Government relating to that conference, including--
 - (A) the cost of any food or beverages;
 - (B) the cost of any audio-visual services; and
 - (C) a discussion of the methodology used to determine which costs relate to that conference; and
- (3) a description of the contracting procedures relating to that conference, including--
 - (A) whether contracts were awarded on a competitive basis for that conference; and
 - (B) a discussion of any cost comparison conducted by the Department of Justice in evaluating potential contractors for that conference.

¹⁵³ Section 218 of the Consolidated Appropriations Act, 2008 (H.R.2764), signed into law on December 26, 2007 as Public Law 110-161.

¹⁵⁴ DOJ spent \$46 million in 2006 on conferences, according to the agency, and limiting the 2008 expenditures to \$15 million, might have freed up as much as \$31 million.

- Is the number of employees attending justified, and could one employee attend instead of many, and provide detailed briefings to other employees afterward?
- Is this a wise use of tax dollars when we have an over \$10 trillion national debt?
- Could the amount spent on the conference have been better spent on a higher priority, or not spent at all?

PUT TRAVEL INFORMATION ONLINE NOW

Because of the transparency provision, authored by Senator Coburn and signed into law by President Bush, DOJ will be one of the first agencies required by law to report and post conference travel expenditures for conferences costing more than \$20,000.

With or without a specific law requiring transparency, DOJ and every federal agency should immediately make available online all conference and travel expenses with as much detail as possible, including dates and the events' primary sponsors.

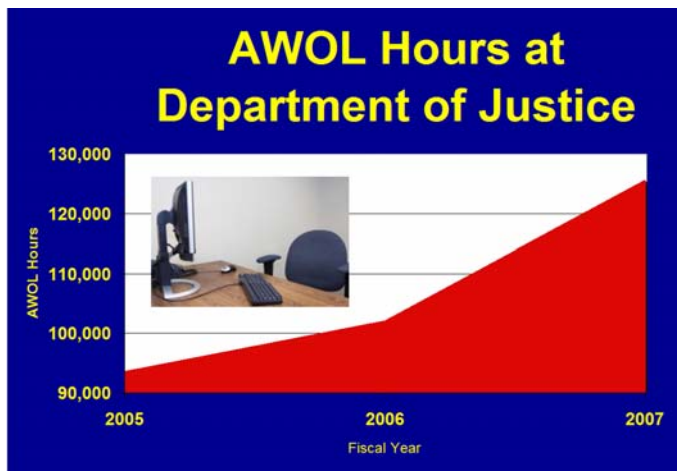
AWOL DOJ EMPLOYEES NOT SHOWING UP FOR WORK

While thousands of DOJ employees have been attending taxpayer-funded conferences, hundreds more decided to skip work altogether. Federal employees across the government have been absent without leave (AWOL) from their jobs for at least 20 million hours since 2001.¹⁵⁵ The problem throughout government worsened nearly every year over that time period, having increased by 45 percent annually between 2001 and 2007. In recent years, employees at the Department of Justice (DOJ) followed a similar pattern as hundreds of employees were charged as AWOL from their jobs.

DOJ defines AWOL as, “an absence from duty that is not approved, including leave which is not approved until required evidence or documentation is submitted, or for which a leave request has been denied.”¹⁵⁶ This does not include annual vacation, sick leave, leave under the Family Medical Leave Act, or various other formal leave options.

AWOL federal employees, while not paid for their absences, have a significant impact on the agency for which they work. Workloads must be altered to accommodate for missing employees, additional staff may need to be hired and productivity is likely lowered – all amounting to a hidden tax on American citizens when government resources are used inefficiently.

Since 2005, the number of hours that DOJ employees have been charged with being AWOL rose from more than 93,000 hours per year, to more than 125,000 hours in 2007 – an increase of 34 percent in just two years.¹⁵⁷ By 2007, only five federal agencies reported higher annual AWOL hours than DOJ.



Year	Number of AWOL Hours ¹
2005	93,471
2006	101,917
2007	125,476

¹⁵⁵ *Missing In Action: AWOL in the Federal Government*, a report by Sen. Tom Coburn, ranking member, Subcommittee on Federal Financial Management, Government Information, Federal Services and International Relations, August 2008; http://coburn.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=8d706bec-eae6-49ba-9b42-c258f655e21e.

¹⁵⁶ Letter to Senator Tom Coburn from Acting Assistant Attorney General, Richard A. Hertling, in response to a request for information on AWOL employees at the Department of Justice, March 13, 2007.

¹⁵⁷ Data from every year between 2001 and 2007 was requested, but DOJ provided information only from 2005 through 2007.

According to the Justice Department, all AWOL hours accumulated by the agency were due to a problematic set of employees, though the problem reflects poor management at the agency. In 2005 and 2006, there were 261 and 287 employees, respectively, who were AWOL for some portion of those years. The average time spent in AWOL status during each of those years was 358 hours per employee in 2005 and 355 hours per employee in 2006. In other words, the average DOJ employee that spent time in AWOL status was gone from his or her job for 45 work days, or *nine full work weeks*.

Putting these figures into context, the amount of time lost in the past three years by AWOL employees at DOJ can be broken down to represent the number of work days and work years lost in total. An official work day is eight hours and a work year is 2,080 hours, while a full career for a federal employee typically spans thirty years. The following represents the amount of time lost by DOJ employees between 2005 and 2007:

Number of eight-hour work days:	40,108 days
Number of work years:	154 years

While these numbers do not reflect the many employees who faithfully show up for their jobs every day, they demonstrate a serious management problem at DOJ. Unfortunately, the problem is not only getting worse, but it seems little is being done to reverse this trend. DOJ claims to use AWOL as a basis for examining an employee's performance, but that claim is weakened by a review of the Department's statistics on employees fired between 2005 and 2006. The Department's personnel policy states the following: "Recording an absence as AWOL is not a disciplinary action; however, AWOL can become the basis for initiating disciplinary action." The facts would suggest that this may not typically include an employee losing his or her job.

Data compiled by the Office of Personnel Management show that the Department of Justice fired only 217 employees in 2005 and 204 employees in 2006. Compared with the 261 and 287 AWOL cases in 2005 and 2006, this means that even if all firings at DOJ in those two years were related to AWOL, 127 AWOL employees remained employed with the Department, even though they routinely skipped work. As an agency with more than 100,000 employees, it is doubtful that each of these firings was related to AWOL. This means there are likely many more than 127 employees at DOJ who were AWOL for a significant period of time that remain employed with the Department.

RECOMMENDATIONS

Overall, the steep 34 percent increase in AWOL hours at DOJ between 2005 and 2007 is a matter of serious concern, and an issue that calls for immediate attention. With the average AWOL employee being absent for at least nine weeks each year, the impact of missing employees can be significant. DOJ should do the following:

- DOJ management must take immediate steps to record and validate the number of hours that its employees are AWOL;
- DOJ management should publish those numbers annually on a public website;

- DOJ management should identify clearly for its employees what the consequences are of being charged with AWOL; and
- DOJ management should enforce those standards rigorously and work to reduce unapproved absences.

EARMARKS COST DOJ A HALF-A-BILLION DOLLARS, WASTING MONEY ON QUESTIONABLE AND ILLEGAL ACTIVITIES

Earmarks, commonly known as “pork projects,” are “funds provided by the Congress for projects or programs where the congressional direction (in bill or report language) circumvents Executive Branch merit-based or competitive allocation processes, or specifies the location or recipient, or otherwise curtails the ability of the Executive Branch to manage critical aspects of the funds allocation process.”¹⁵⁸

The Department of Justice appropriations for Fiscal Year (FY) 2006 included an estimated 1,409 earmarks valued at more than \$869 million, according to the Office of the Inspector General. The IG found that “this total includes 801 earmarks valued at more than \$357 million to the Office of Justice Programs and 566 earmarks valued at nearly \$193 million to the Office of the Community Oriented Policing Services (COPS). Overall, the earmarks for the OJP and COPS represent 63.3 percent of the Department’s total earmarks in FY 2006.”¹⁵⁹

The number of earmarks carved out of the DOJ budget increased in FY 2008, while the overall cost of the earmarks declined. There were 1,505 items in the earmark disclosure list for DOJ with a combined dollar value of \$529.7 million in 2008.¹⁶⁰

That means nearly half-a-billion dollars in federal justice funding is distributed annually based upon political connections to members of Congress, rather than through an open, merit-based competition.

Not surprisingly, many of these earmarked projects are questionable, if not outright misuses, of taxpayer dollars. The Department of Justice has revealed to congressional investigators that “we have certainly had instances when earmarks are allotted and the paperwork does not conform with the allowable expenses. In some instances the recipient has been able to provide appropriate documentation when requested; in other instances they have not, and have been required to repay those expenses.”¹⁶¹

The following are just a few recent examples of questionable earmarks:

THE DOJ EARMARK THAT BECAME A CRIME SCENE

DOJ resources are intended for investigating and prosecuting domestic terrorist threats, crimes against children, and other federal crimes that threaten law abiding Americans, but at least one recent DOJ earmark has become its own crime scene for Department investigators.

¹⁵⁸“OMB Guidance to Agencies on Definition of Earmarks,” Office of Management and Budget website, http://earmarks.omb.gov/earmarks_definition.html, accessed August 25, 2008.

¹⁵⁹Correspondence from Glen A. Fine, Inspector General of the Department of Justice, to U.S. Senator Tom A. Coburn, February 22, 2007.

¹⁶⁰ Consolidated Appropriations Act, 2008 (H.R. 2764; Public Law 110–161)

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2008

¹⁶¹E-mail from Department of Justice official to the office of Senator Tom Coburn, September 16, 2008.

A former Western Kentucky University (WKU) professor is under federal investigation, suspected of misusing \$33,000 in grant money over several years. An audit shows the \$33,000 was part of nearly \$5 million DOJ grant for the ALIVE Center, which is part of the university's juvenile delinquency prevention project.¹⁶²

The investigation began in July 2007, when a former WKU student reported concerns about possible fraud in two federally funded community outreach programs, according to WKU documents. The programs provided structured activities for at-risk youth during out-of-school hours. On October 9, the auditor substantiated the misuse of the grant.¹⁶³ Then-director Katrina E. Phelps was removed by DOJ as the ALIVE Center contact on grants on October 25. She was removed from all ALIVE Center duties November 8. Phelps formally left Western in December 2007.¹⁶⁴

A Department of Justice official told congressional investigators:

“Western Kentucky University received funding from OJJDP in FYs 2005 and 2006 through congressional earmarks. The ALIVE Center is part of the WKU project under the earmark. WKU came forward to OJJDP and told them about the misuse of funds. OJJDP reported that to the Comptroller and asked it to schedule a potential site visit, due to the allegations of misuse of funds by a grantee employee. The Comptroller's office waited for the results of an internal investigation prior to the visit. In July 2008, OJJDP informed the Comptroller of an apparent federal investigation of this grantee. Accordingly, the Comptroller deferred any potential site visit of this grantee pending the conclusion of the federal investigation. The local USAO and the FBI are involved in the investigation.”¹⁶⁵



The Department of Justice is investigating at least two pork projects funded with federal crime prevention dollars.

It is a travesty of justice when federal dollars intended to prevent crime are not only misused, but result in federal investigators and resources being diverted away from other criminal investigations.

¹⁶²“Former WKU professor under federal investigation for misuse of grant money,” WHAS-TV Channel 11 ABC, August 7, 2008; http://www.whas11.com/topstories/stories/whas11_topstory_080807_WKU_dean.234ec7dc.html.

¹⁶³Burton Speakman. “ALIVE Center pulling through; Western officials say misuse of grant hasn't cost endeavor further funding; U.S. Attorney's Office opens probe into matter,” *The Daily News*, August 9, 2008.

http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=122745179E3575A0&p_docnum=1.

¹⁶⁴“Oversight on grants at WKU is a good thing,” *The Daily News*, August 8, 2008; http://nl.newsbank.com/nl-search/we/Archives?p_action=doc&p_docid=12272ED2B2F48A58&p_docnum=2.

¹⁶⁵E-mail from Department of Justice official to the office of Senator Tom Coburn, August 27, 2008. USAO stand for the US Attorney's Office.

DOJ THREATENS LAWSUIT AGAINST EARMARK RECIPIENT FOR MISUSING TAXPAYER FUNDS

In FY 2002 DOJ appropriations, Congress earmarked \$1 million for the Safe Schools Initiative in Macon, Georgia.¹⁶⁶ The earmarked dollars “were intended to fund after-school programs for kids”¹⁶⁷ and “prevent crime” but “questions about the Safe Schools Initiative persisted even while the program was ongoing.”¹⁶⁸

Federal officials accused the city of falsely certifying how the money was spent and “suggested” the city and the groups to which the funds were disbursed “made improper purchases” with the money.¹⁶⁹ U.S. Attorney Max Wood says the city has misused approximately \$350,000, or one-third of the earmarked money, and “has threatened to sue the city of Macon for \$1 million if it did not agree to repay that amount.”¹⁷⁰

The Macon Telegraph reported:

“local or federal investigators — beyond the grant overseers and auditors who worked with the city — have been looking at the program since at least 2005. A letter sent to the city from the federal government almost a year ago questioned why the city spent grant funds to buy a digital camera, office divider panels, an automatic paper folder and to pay for a police conference in New Orleans. In the letter, the Justice Department’s Office of the Inspector General also asked the city for more information about other grant expenses, including how certain salaries were determined, a list of who was issued grant-funded cell phones and a list of city employees who received computers and printers that were purchased with grant money.”¹⁷¹

City officials and federal agents are conducting an investigation along with the grant’s initial overseers in several divisions of the U.S. Department of Justice. Officials from the city’s police department, finance department and attorney’s office spent a number of days in U.S. Attorney Max Wood’s office reviewing records earlier this year.¹⁷²

The reviews of the grant have, in fact, been ongoing for a number of years. “Records released to *The Telegraph* through Georgia’s Open Records Act show that the grant has been subjected to several reviews. Not only was the police department in routine contact with a Department of

¹⁶⁶ Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (H.R. 2500; Public Law 107–77), Page 112, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_reports&docid=f:hr278.107.pdf.

¹⁶⁷ Matt Barnwell. “FEMA to withhold portion of tornado disaster funding,” *The Macon Telegraph*, September 9, 2008; <http://www.macon.com/198/story/459098.html>.

¹⁶⁸ Travis Fain. “Macon’s grant matter remains murky,” *The Macon Telegraph*, June 16, 2008; <http://www.macon.com/198/story/379799.html>.

¹⁶⁹ Matt Barnwell. “Macon close to resolving threatened federal lawsuit,” *The Macon Telegraph*, August 27, 2008, <http://www.macon.com/198/story/445308.html>.

¹⁷⁰ Phil Dodson for the Editorial Board. “Opinion: A better use of taxpayers’ money,” *The Macon Telegraph*, August 28, 2008; <http://www.macon.com/203/story/445983.html>.

¹⁷¹ Travis Fain. “Macon’s grant matter remains murky,” *The Macon Telegraph*, June 16, 2008; <http://www.macon.com/198/story/379799.html>.

¹⁷² Travis Fain. “Macon’s grant matter remains murky,” *The Macon Telegraph*, June 16, 2008; <http://www.macon.com/198/story/379799.html>.

Justice program manager during the life of the grant, but it also dealt with the Department's Office of the Comptroller, letters in city files show. The comptroller's office sent a review team to Macon in October 2004 to review the Safe Schools Initiative grant as well as other federal grants. The team expressed concerns," according to a *Macon Telegraph* investigation.¹⁷³

This \$1 million earmark, intended to prevent crime, has instead diverted federal and local resources away from investigating, prosecuting and preventing other crimes for several years. The money may have been earmarked in 2002, but six years later it continues to cost taxpayers.

ADVOCACY GROUP THAT PROMOTES DRUG LEGALIZATION RECEIVES EARMARK TO EDUCATE STUDENTS ABOUT DRUG USE

New Mexico has the third highest drug-related death rate in the nation.¹⁷⁴ One of the most widely abused drugs in the state is methamphetamine, which is a powerful and widely abused illicit drug with many dangerous side effects, including hallucination, memory loss, irritability, paranoia, panic reactions, depression, and psychosis.¹⁷⁵ Between 2003 and 2005 there was a 31 percent increase in the number of New Mexico high school students (grades 9-12) living in urban areas who reported using meth, according to the New Mexico Department of Health research.

Facing such a drug epidemic, it is not shocking that one of the state's senators would secure a \$493,614 congressional earmark through the Department of Justice to create a statewide education program to address methamphetamine abuse among high school students in New Mexico. What is shocking, however, is that an earmark for this purpose would be directed to The Drug Policy Alliance (DPA), an advocacy organization that seeks the decriminalization of illegal drugs.

DPA believes that "the war on drugs has failed to eliminate drug use, and has done serious damage to Americans' constitutional rights. The drug war is unfair to students who are denied access to honest, accurate information about drugs."¹⁷⁶ This certainly is an interesting position from a group that has been awarded taxpayer funds to educate high school students about drug abuse.

Under the heading "What's Wrong With The War on Drugs," DPA's website states, "Drug abuse is bad, but the drug war is worse."¹⁷⁷ Regarding the meth epidemic specifically, DPA states "alarmist media coverage and draconian political responses to the dangers of methamphetamine have been reminiscent of the public reaction to crack cocaine in the 1980s. Reality contradicts many of the myths perpetuated by the media. Amphetamine use rates among high school seniors have actually remained steady for the last ten years, and treatment statistics show that users of

¹⁷³ Travis Fain. "Macon's grant matter remains murky," *The Macon Telegraph*, June 16, 2008; <http://www.macon.com/198/story/379799.html>.

¹⁷⁴ Nina Shah, M.S. "Drug Overdose Death in New Mexico, 2006," *New Mexico Epidemiology*, Volume 2007, Number 4, June 1, 2007; <http://www.health.state.nm.us/pdf/Drug%20Overdose%20Death%20in%20New%20Mexico%202006.pdf>.

¹⁷⁵ Office of National Drug Control Policy website. "Methamphetamine Fact Sheet," accessed September 25, 2008; http://www.whitehousedrugpolicy.gov/NEWS/press05/meth_factsheet2.html.

¹⁷⁶ Drug Policy Alliance Network MySpace webpage, accessed September 25, 2008; <http://www.myspace.com/drugpolicy>.

¹⁷⁷ Drug Policy Alliance website. "What's Wrong With the Drug War?," accessed September 25, 2008; <http://www.drugpolicy.org/drugwar/>.

the drug have a treatment success rate similar to that of other drugs. Recently enacted laws in many states now put medicines containing pseudoephedrine, which can be used to make methamphetamine, behind the counter. This change has in many cases reduced the number of methamphetamine labs found in people's homes, but has not reduced demand, which is being met by methamphetamine imported from Mexico. Drug Policy Alliance is working to keep the policy response to methamphetamine focused on treatment and education, and make sure that public concern over methamphetamine does not translate into a new round of ineffective mandatory minimum sentences levied by politicians eager to appear 'tough on crime.'"¹⁷⁸

DPA's myspace webpage calls for marijuana legalization and states that "DARE [which is a police officer-led series of classroom lessons that teaches children from kindergarten through 12th grade how to resist peer pressure and live drug and violence-free lives¹⁷⁹], is useless and that we need an alternative drug education program based on science, not scaremongering."¹⁸⁰



The Drug Policy Alliance, which claims that the "the drug war is unfair to students," has received an earmark for nearly half-a-million dollars to educate New Mexico students about drugs.

Ironically, this earmark diverted nearly half-a-million dollars from law enforcement and criminal justice programs to subsidize an advocacy organization that supports drug decriminalization for a supposed drug education program aimed at high school students.

Furthermore, DPA does not have to rely on taxpayer dollars to bankroll its pro-drug messages to teenagers as billionaire George Soros, often referred to as the "Daddy Warbucks" of the drug legalization movement, is a member of the DPA board of directors.¹⁸¹

Based upon DPA's history of advocating drug abuse, taxpayers and parents have good reasons to believe otherwise.

BALTIMORE POLICE WANT PROSECUTORS TO FIGHT GUN CRIMES, BUT EARMARK FUNDS SPENT ON PUBLIC RELATIONS CAMPAIGN INSTEAD

Baltimore, Maryland has long had a reputation as being one of the most violent cities in the U.S. This year gun crimes in the city have resulted in dozens of shootings, homicides, assaults and robberies with deadly weapons.¹⁸²

U.S. Attorney Rod J. Rosenstein, who "oversees federal civil and criminal litigation and develops and implements federal law enforcement strategies in Maryland,"¹⁸³ has stated that the

¹⁷⁸Drug Policy Alliance website. "Methamphetamine," accessed September 25, 2008;

<http://www.drugpolicy.org/drugbydrug/methamphetam/>.

¹⁷⁹D.A.R.E. website, accessed September 24, 2008, http://www.dare.com/home/about_dare.asp.

¹⁸⁰Drug Policy Alliance Network MySpace webpage, accessed September 25, 2008; <http://www.myspace.com/drugpolicy>.

¹⁸¹Drug Policy Alliance website. Accessed September 25, 2008;

<http://www.drugpolicy.org/library/about/aboutdpa/governance/board.cfm>.

¹⁸²Chris Simkins. "Gun Violence on the Rise in Baltimore, Maryland," Voice of America, June 9, 2008;

<http://www.voanews.com/english/archive/2008-06/2008-06-09-voa35.cfm?CFID=111136844&CFTOKEN=13039478>.

primary constraint on the number of gun cases transferred to his office is the number of federal prosecutors.¹⁸⁴

Yet, most of a \$200,000 Department of Justice earmark that Baltimore, Maryland “hoped to spend on two new federal prosecutors and a paralegal, who were to focus on gun cases, will instead be diverted to other purposes—including a public relations campaign touting the U.S. Attorney’s Exile strategy to reduce gun violence,” according to Baltimore’s *Daily Record*. The total cost of the print and radio campaign is expected to be \$100,000 with \$41,200 coming from the funds that would have paid for new prosecutors, confirmed Kristen Mahoney, chief of technical services for the Baltimore City Police Department.

“Plans to hire federal prosecutors with the funds, which Mahoney said came from a federal narcotics earmark to the police department, were scrapped after Baltimore State’s Attorney Patricia C. Jessamy expressed outrage over the arrangement in September, even threatening to take back an assistant state’ attorney who works with federal prosecutors,” according to the *Baltimore Daily Record*.¹⁸⁵

Other expenses paid for with the earmark include \$30,000 for a pod camera and \$50,000 to hire a support professional who will handle paperwork and be a liaison between the police department and the U.S. Attorney’s Office.

Raquel Guillory, a spokeswoman for then-Mayor Martin O’Malley, commented that “of course our first preference was to have additional prosecutors prosecuting gun crimes.”

While the impact of the 2006 public relations campaign on gun related crimes paid for with the earmark was not evaluated, shootings in Baltimore increased 36 percent in 2007.¹⁸⁶

EARMARK IS SO LARGE THAT THE RECIPIENT EXCLAIMS “THERE’S NO WAY WE’D NEED THAT KIND OF MONEY”

As part of the 2008 Consolidated Appropriations Act, Congress approved a \$1.65 million earmark for the Bastrop, Louisiana Police Department.¹⁸⁷ *The Bastrop Daily Enterprise* reported “the money is officially earmarked for the purchase of bulletproof vests and body armor. Bulletproof vests only cost about \$700-800, however, so \$1.6 million would appear to be overkill.” Detective Curtis Stephenson concurred, noting, “There’s no way we’d need that kind of money just to put all our people in vests.”¹⁸⁸ The entire Bastrop Police force consists of 23 officers.¹⁸⁹

¹⁸³ Rod J. Rosenstein biography, Department of Justice website, updated June 17, 2008 and accessed August 27, 2008; <http://www.usdoj.gov/usao/md/USA/index.html>.

¹⁸⁴ Daniel Ostrovsky. “Baltimore to use most of Dept. of Justice grant for PR campaign,” *The Daily Record*, January 20, 2006.

¹⁸⁵ Daniel Ostrovsky. “Baltimore to use most of Dept. of Justice grant for PR campaign,” *The Daily Record*, January 20, 2006.

¹⁸⁶ Melody Simmons. “Baltimore Mayor Unveils Strategy to Attack Increase in Gun Crime,” *The New York Times*, May 3, 2007 as appended with a correction on May 4, 2007; <http://www.nytimes.com/2007/05/03/us/03baltimore.html>.

¹⁸⁷ Consolidated Appropriations Act, 2008, H.R. 2764/Public Law 110-161; Division B -- Commerce, Justice, Science, and Related Agencies Appropriations Act, <http://www.gpoaccess.gov/congress/house/appropriations/08conappro.html>.

¹⁸⁸ Jason Stuart. “Senate considers earmark for BPD,” *Bastrop Daily Enterprise*, July 26, 2007.

¹⁸⁹ Nathan Stubbs. “Pork Plate,” *The Independent Weekly*, July 2, 2008; http://www.theind.com/index.php?option=com_content&task=view&id=2752&Itemid=73.

Bastrop Police Chief Alan Freeman said other police chiefs around the state are quite envious of his department's ability to secure large amounts of federal funding. The department was also given a \$1.25 million federal technology grant a couple of years ago to update its computer systems. Freeman said Bastrop's secret weapon is the lobbyist the city hired to represent its interests in Washington. "A lot of it goes back to the mayor, to his foresight to hire a lobbyist," Freeman said. "That helped tremendously."¹⁹⁰

It is an injustice to the taxpayer to distribute federal resources for law enforcement and justice programs based upon whether or not a community hires a Washington lobbyist rather than upon need or merit.

EARMARK TAKES KIDS IN MIAMI WHITE WATER RAFTING, LEAVING TAXPAYERS UP THE RIVER WITHOUT A PADDLE AND STUCK WITH THE BILL

"Last year, Miami Beach's Gang and Drug Prevention Program, known as the Teen Club, used part of a \$50,000 federal grant to take members of the club white water rafting in Tennessee," according to the *Miami Herald*.¹⁹¹ This year, the group will receive \$651,500 from the Department of Justice's Office of Juvenile Justice and Delinquency Prevention.

The Teen Club operates from the North Shore Park and keeps about 100 kids ages 12-17 busy after school and on weekends with various activities. It plans to add a second teen center in South Beach with federal dollars.¹⁹²

While the center may provide adolescents in Miami a fun place to hang out and to take rafting trips, it is fair to question whether or not the federal government should play a role in these activities at all, since their impact on federal crime efforts are dubious at best.



White water rafting in Tennessee: An example of earmarks fighting crime in Miami, Florida.

¹⁹⁰ Jason Stuart. "Senate considers earmark for BPD," *Bastrop Daily Enterprise*, July 26, 2007.

¹⁹¹ Lazaro Fraga. "Miami Beach Teen club gets \$680,000 grant," *Miami Herald*, April 20, 2008.

¹⁹² Lazaro Fraga. "Miami Beach Teen club gets \$680,000 grant," *Miami Herald*, April 20, 2008.

EARMARK SENDS MILWAUKEE KIDS BOWLING AND TO SIX FLAGS TO KEEP THEM SAFE FROM CRIME DURING THE SUMMER

In cities across the country, including Milwaukee, Wisconsin, police have reported spikes in juvenile crime as a surge in violence involving gangs and weapons has raised crime rates from historical lows early this decade, according to *USA Today*.¹⁹³

Tony Gibson, head of the Johnson Park Neighborhood Association in Milwaukee, said neighborhood residents are uneasy because of recent burglaries, armed robberies, attempted car thefts and reports of shots fired in the area. “People seem to be a lot more fearful of crime than I’ve seen in the last couple years,” said Gibson.¹⁹⁴

In just the six months of this year, there were 1,703 aggravated assaults, 1,392 robberies, 88 rapes, and 33 homicides in Milwaukee. And those shocking numbers sadly equal progress when compared to the same period in 2007.¹⁹⁵

Milwaukee Police Chief Edward Flynn said the city is placing an emphasis on officers’ presence to disrupt all kinds of illegal activity.¹⁹⁶

The FY 2008 federal appropriations for the DOJ Office of Justice Programs contained a \$223,000 earmark for the Milwaukee Public Schools (MPS) of Wisconsin “to continue safe summer sites.”¹⁹⁷ While this brief description provided for the earmark in a congressional conference report may sound like the earmark will help keep kids safe by supporting the city’s



Did roller coaster rides at Six Flags or bowling keep kids in Milwaukee safe from crime this summer?

¹⁹³Kevin Johnson. “Police tie jump in crime to juveniles,” *USA Today*, July 13, 2006; http://www.usatoday.com/news/nation/2006-07-12-juveniles-cover_x.htm.

¹⁹⁴Linda Spice and Ryan Haggerty. “Milwaukee’s violent crime drops 19% in early 2008,” *Milwaukee Journal Sentinel*, July 28, 2008; <http://www.jsonline.com/story/index.aspx?id=777250>.

¹⁹⁵“Crimes decline in city,” *Milwaukee Journal Sentinel*, July 28, 2008; http://www.jsonline.com/multimedia/graphic.asp?graphic=http://graphics.jsonline.com/graphics/news/img/jul08/crimeG_72908_big.jpg.

¹⁹⁶Linda Spice and Ryan Haggerty. “Milwaukee’s violent crime drops 19% in early 2008,” *Milwaukee Journal Sentinel*, July 28, 2008; <http://www.jsonline.com/story/index.aspx?id=777250>.

¹⁹⁷Consolidated Appropriations Act, 2008 (H.R. 2764; Public Law 110–161) Appropriations Committee Print, Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, Page 266, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_committee_prints&docid=f:39564b.pdf.

police presence and enforcement in dangerous neighborhood, the funding actually has little to do with safety, but rather fun summer recreational activities for youth.

According to MPS, 2008 “safe summer programs” include video games, music, dance, bowling, arts and crafts, field trips, “enrichment classes,” as well as reduced price tickets for attractions like Six Flags.¹⁹⁸

While these activities may be fun or even educational for children, they do little to ensure children’s safety, to fight crime in Milwaukee, or even to justify a role for the federal government.

APPLE PICKING, PIE MAKING, POOL PLAYING, SKATEBOARDING, WHITEWATER RAFTING, AND MILKING COWS ALL PART OF “AT-RISK YOUTH” EARMARKS FOR VERMONT

Within DOJ’s FY 2008 appropriations for “at-risk youth” programs, the state of Vermont received two earmarks costing \$848,350, including \$133,950 for the “Vermont Department of Public Safety, Waterbury, VT, for an outreach program for at-risk youth” and \$714,400 for the “Vermont Department of Children and Families, Waterbury, VT, for programs to help at-risk youth.”¹⁹⁹

Two years ago, a Montpelier, Vermont teen center took a group of youngsters whitewater rafting in Maine, using money from a federal grant. This year, a \$133,950 congressional earmark for the Vermont Coalition of Teen Centers “could help pay for another trip,” according to the *Associated Press*.²⁰⁰

But that is not all.

Thirty teen centers around the state will receive between \$1,500 and \$2,000 each for various projects, according to Hope Emerson, the statewide coordinator for the Vermont Coalition of Teen Centers. Emerson says some of the money will be used to prevent “obesity.”²⁰¹ “We’ve been focusing on food and nutrition,” Emerson explained.²⁰²

George Karpoff, unit director of the Montpelier teen center, says the teens will decide what projects to fund with the congressional earmark.²⁰³ “In Montpelier, at Basement Teen Center,

¹⁹⁸Milwaukee Public Schools press release, “Last day of school brings launch of safe summer programs at MPS,” June 13, 2008; <http://www.thewheelerreport.com/releases/Jun08/jun13/0613mpslastday.pdf>.

¹⁹⁹Consolidated Appropriations Act, 2008, H.R. 2764/Public Law 110-161; Division B — Commerce, Justice, Science, and Related Agencies Appropriations Act, page 428, <http://www.gpoaccess.gov/congress/house/appropriations/08conappro.html>.

²⁰⁰Lisa Rathke. “Vermont teen centers get \$133,000 US grant,” *Associated Press*, September 5, 2008, http://www.boston.com/news/local/vermont/articles/2008/09/05/vermont_teen_centers_get_133000_us_grant/.

²⁰¹John Dillon. “Sanders announces grants for teen centers,” Vermont Public Radio, September 5, 2008, http://www.vpr.net/news_detail/81969/.

²⁰²Daniel Barlow. “Sanders: Federal grants will support teen center programs,” Rutland Herald, September 5, 2008, <http://www.rutlandherald.com/apps/pbcs.dll/article?AID=/20080905/NEWS02/809050367/1003/NEWS02>.

²⁰³John Dillon. “Sanders announces grants for teen centers,” Vermont Public Radio, September 5, 2008, http://www.vpr.net/news_detail/81969/.

youths can go apple picking; take pie-making classes; play pool, guitar, and Ultimate Frisbee; or just hang out,” according to the Associated Press.²⁰⁴

The city of Barre, Vermont, will receive \$66,000 to help build a skateboard park. “We have a lot of youngsters, especially in Barre City, who like to skateboard,” said Stephanie Quaranta, recreation director.²⁰⁵

Another \$89,000 of the earmark will go to “Strolling of the Heifers” to fund a pilot program that would allow teenagers who are having trouble at school or home to work on farms in Windham County, Vermont. “It’s not just about milking cows,” according to Helen Robb, whose family owns and operates a farm in the state. “We hope this program will help us keep kids in Vermont,” said Orly Munzing, director of Strolling of the Heifers. Munzing said she was still working on the specifics of the plan. The farmers will receive a small stipend to encourage them to participate and the teenagers will work on the farms. She hopes to have about 25 students participate the first year. “The money will be used to start the program in Windham County and “if it is successful it might be replicated around the country.”²⁰⁶

While these activities may be fun or even educational for children, it is difficult to understand how obesity programs and recreational activities for teens fight crime, advance the mission of the Department of Justice, or even justify a role for the federal government.



Justice in action: Teens skateboarding and playing pool as a result of Vermont’s congressional earmarks

²⁰⁴Lisa Rathke. “Vermont teen centers get \$133,000 US grant,” *Associated Press*, September 5, 2008, http://www.boston.com/news/local/vermont/articles/2008/09/05/vermont_teen_centers_get_133000_us_grant/.

²⁰⁵Lisa Rathke. “Vermont teen centers get \$133,000 US grant,” *Associated Press*, September 5, 2008; http://www.boston.com/news/local/vermont/articles/2008/09/05/vermont_teen_centers_get_133000_us_grant/.

²⁰⁶Howard Weiss-Tisman. “Sanders delivers federal funds for farms, youth,” *Brattleboro Reformer*, September 5, 2008, http://www.reformer.com/ci_10387378.

CALIFORNIA TOWN ASKS FOR, THEN DECIDES IT DOES NOT WANT CONGRESSIONAL EARMARK

Even though the residents of every town in America pay the federal taxes that make congressional earmarking possible, many cities, towns and localities treat earmarks as “free money” that make it possible to pay for projects that may not be priorities or even necessary.

One recent example involves the city of Novato, California. This town has a population of about 51,500²⁰⁷ and an annual budget of over \$37 million.²⁰⁸ In FY 2008, the city submitted a request to its lobbyist²⁰⁹ for a congressional earmark. As a result, it received \$188,000 through the Department of Justice listed for “Juvenile Substance Abuse Program for Hamilton Communities,”²¹⁰ intended to pay for a summer playground program, a middle school theater program, and a number of other recreational and educational activities for children and youth.²¹¹

“But now,” according to press reports, “municipal officials are unsure whether to accept the money, because doing so also would require the city to use some of its own resources to help launch the program.”²¹²

A City of Novato staff report reveals that “support for the request was received from the Office of Juvenile Justice Prevention via an earmark from Congresswoman Woolsey. Subsequently in March 2008, the City submitted a detailed application requesting \$188,000 in federal earmark funding to cover the direct program costs. City administrative costs of creating and managing the program will not be covered by the federal funding. The City’s financial situation is much different today than it was at the time when the original request for funding was made in early 2007.”²¹³

The staff report goes on to ask, “staff is seeking Council direction on whether to accept the funding and direct City staff resources to creating a series of new programs focused on Youth Substance Abuse prevention, at a time when we are desperate to generate new revenues and cut expenses, or should funding be declined?”²¹⁴

²⁰⁷U.S. Census Bureau. “State and County Quick Facts,” Last revised July 25, 2008, <http://quickfacts.census.gov/qfd/states/06/0652582.html>.

²⁰⁸City of Novato City Budget. “Budget Tables,” City of Novato website, accessed September 24, 2008, <http://www.ci.novato.ca.us/Index.aspx?page=336>.

²⁰⁹Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” page 1, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

²¹⁰Consolidated Appropriations Act, 2008, H.R. 2764/Public Law 110-161; Division B -- Commerce, Justice, Science, and Related Agencies Appropriations Act, page 294; <http://www.gpoaccess.gov/congress/house/appropriations/08conappro.html>.

²¹¹Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” pages 2- 3, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

²¹²“City Council to discuss whether to take grant,” *Marin Independent Journal*, September 20, 2008, http://www.marinij.com/marinnews/ci_10520367.

²¹³Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

²¹⁴Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” pages 1- 2, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

The report outlines “there were a number of requirements, which were of concern for staff. A primary one was creating the program, essentially from scratch, with a detailed budget that had to include the identification of specific problems, i.e. truancy, drug abuse, etc. with performance measures to monitor the success of the program. In addition, the City was required to identify how the program would be sustained beyond the federal funding and the federal funds could not supplant existing funding. These still remain concerns.”²¹⁵

“The creation and implementation of the new programs funded by the federal earmark will require significant City resources,” according to the report. “At a time of significant budget concerns for the City, dedicating staff resources to creating these new programs that will generate no revenue may not be prudent fiscally.” Furthermore, the staff report notes that it is possible that “the programs created by the earmark funds will be abandoned at the end of the three years, when grant funding disappears.”²¹⁶

But this fiscal impact of rejecting the earmark is not the first concern of the staff memo, nor is the impact on reducing crime. The section entitled “Potential Impacts of Not Accepting the Earmark Funds” states:

“The ramifications of not accepting funds received through the specialized, competitive earmark program are not entirely known. This is the first time that the Parks, Recreation and Community Services Department has received earmark funding. Just prior to this Office of Juvenile Justice Program funding, the Police Department received earmark funding for another program.

“As earmark funding is awarded through special direction of legislators, in this case Congresswoman Lynn Woolsey, usually with assistance of our federal lobbyist, it is difficult to determine whether declining the award would cast a dark cloud over Novato in current and future legislator’s minds and diminish the ability to receive earmark funds in the future. As the City is facing significant budget challenges, in the near term, having the assistance of a federal lobbyist to secure special earmark funding, may be greatly diminished if funding for a lobbyist is cutback.”²¹⁷

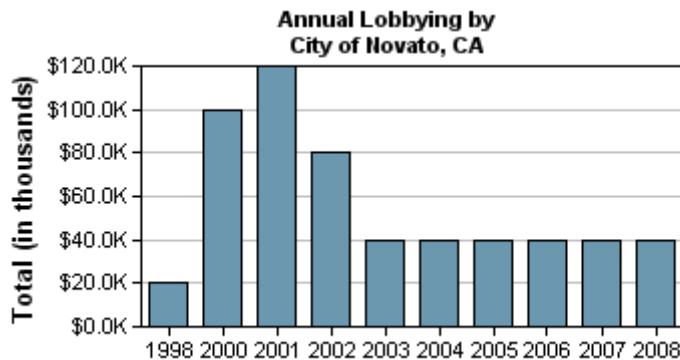
It would appear from this staff report that the city is most concerned about putting future congressional earmarks at risk or losing its Washington lobbyist.

²¹⁵Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” page 2, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

²¹⁶Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” pages 4- 5, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

²¹⁷Pam Shinault, director of the Parks, Recreation and Community Services Department. The City of Novato California Staff Report, “Office of Juvenile Justice Prevention Program Federal Earmark Award,” page 4, September 23, 2008, http://www.ci.novato.ca.us/agendas/pdfstaffreports/cc08_187.pdf.

The City of Novato spends \$40,000 a year to hire the Ferguson Group, a Washington, D.C. lobbying firm, according to the Center for Responsive Politics.²¹⁸ The city has spent more than half-a-million dollars on lobbying the federal government over the past decade. Some might question if this money could have instead been spent on the youth recreational activities for which the city sought this earmark.



The real question, however, is, if this project is not a priority for the city that asked for the federal earmark, why should it be a priority for the Department of Justice or the American taxpayers?

THOUSANDS OF OTHER DOJ EARMARKS FOR QUESTIONABLE AND VAGUE PURPOSES

These are just 10 of the thousands of earmarks funded through the DOJ in recent years.

These 10 questionable projects cost taxpayers about \$9.6 million. When you consider that \$48,283 is the median expected salary for a typical police patrol officer²¹⁹ in the United States, 200 officers could have been hired for a year for the cost of just these 10 earmarks.

There were plenty of other questionable congressional earmarks funded through DOJ in recent years, but nearly all earmarks are presented in such a manner as to obscure the intended purpose of the funds. Some FY 2008 earmarks include:

- \$141,000 for “RMBL, Richmond, VA”²²⁰ (This earmark is so vague that the U.S. Office of Management and Budget lists the beneficiary/recipient as “not yet available.”²²¹);



More than 11,000 police officers could have been hired this year to patrol neighborhoods and reduce crime for the same \$529.7 million spent on congressional pet projects funded through DOJ.

²¹⁸The Center for Responsive Politics. “Lobbying; City of Novato, CA,” OpenSecrets.org website, accessed September 24, 2008; <http://www.opensecrets.org/lobby/clientsum.php?year=2008&lname=City+of+Novato%2C+CA>.

²¹⁹Salary.com, accessed September 3, 2008. “This basic market pricing report was prepared using our Certified Compensation Professionals’ analysis of survey data collected from thousands of HR departments at employers of all sizes, industries and geographies,” data as of July 2008, http://swz.salary.com/salarywizard/layouthtml/swzl_compresult_national_LG12000003.html#bottom

- \$846,000 for “Father’s Day Rally Committee, Inc., Men United Program, Philadelphia, PA;”
- \$263,200 for “American Sailing Training Association, Newport, RI, for afterschool programs for at-risk youth to reduce truancy and delinquency;”
- \$47,000 for a mural arts program in Philadelphia; and
- Two DOJ earmarks totaling \$448,850 for Shedd Aquarium in Chicago, Illinois — an entity that spent more than \$200,000 on lobbyists, \$600,000 on fundraising parties, and cleared \$8 million in 2007, after expenses.²²²

Some of these earmarks are continued year after year without much scrutiny or evidence of accomplishment. Between FY 2004-2008, Congress funded 85 earmarks in multiple years through DOJ. The cost of these 85 recurring DOJ earmarks totaled \$43.2 million. While nearly 90 percent of these earmarks would have been eligible to compete for DOJ funding through the regular grant making process, only half actually received such merit based grants. Until 2007, more than half of the reoccurring earmarks were not even required to report progress or notable accomplishments from their receipt of federal funds.²²³

These facts raise a number of important questions. Did the recipients of millions of dollars in congressional earmarks actually accomplish anything? If the recipients were eligible for competitive grants, why did they instead receive funding through the earmarking system which is based upon political connections rather than merit? Did the recipients attempt to compete for grants but were rejected for failing to demonstrate merit?

Taxpayers would need to hire a team of private investigators just to determine how the \$529.7 million earmarked for congressional pet projects within DOJ’s budget is being spent this year and whether or not the hundreds of millions of dollars spent on these congressional pork projects are advancing the mission of the Justice Department.

HIDDEN COSTS OF EARMARKS: MILLIONS OF DOLLARS WASTED ON ADMINISTRATION AND NATIONAL DRUG CONTROL EFFORTS COMPROMISED

Earmarks contain hidden costs that make the projects even more expensive to the taxpayers than the line-item price tag listed within bills and conference reports. Federal agencies must

²²⁰Consolidated Appropriations Act, 2008 (H.R. 2764; Public Law 110–161) Appropriations Committee Print, Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_committee_prints&docid=f:39564b.pdf.

²²¹Office of Management and Budget earmarks database, website accessed September 9, 2008, http://earmarks.omb.gov/2008-earmarks/earmark_328536.html.

²²² Consolidated Appropriations Act, 2008 (H.R. 2764; Public Law 110–161) Appropriations Committee Print, Division B—Commerce, Justice, Science, and Related Agencies Appropriations Act, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_committee_prints&docid=f:39564b.pdf; Sharyl Attkisson. “Fishing For Your Tax Dollars; Shedd Aquarium Reels In Dough, But It’s Still Getting Millions In Earmarks,” CBS Evening News, April 18, 2008, <http://www.cbsnews.com/stories/2008/04/18/eveningnews/main4028677.shtml>.

²²³ Correspondence from Department of Justice Principal Deputy Assistant Attorney General Keith B. Nelson, to U.S. Senator Tom A. Coburn, M.D., July 3, 2008.

administer the funds and monitor the projects being funded. These activities require staff and official time. Earmarks also siphon funds away from other activities, often compromising the mission of the program through which they are funded.

The DOJ Inspector General could not provide a total annual cost of earmark administration, but did find that the price would exceed \$10 million. “The Department does not track the indirect ‘related costs’ of earmark administration. However, the COPS Office estimated that it incurred over \$1 million in related costs to administer earmarks in FY 2006, while OJP estimated that it incurred almost \$10 million in expenses,” according to the IG.²²⁴

DOJ’s Office on Violence Against Women (OVW) noted that much staff time and resources are directed toward administering earmarks:

“Due to the non-competitive nature of the earmark process, these grantees have an expectation of entitlement and a corresponding disinterest in following grant guidelines and abiding by restrictions on funding that are established in the Violence Against Women Act (VAWA). OVW is responsible for requiring grantees to adhere to the purpose areas and other restrictions included in VAWA. OVW staff spend a considerable amount of additional time working directly with earmark grantees to provide technical assistance and attempt to ensure compliance with applicable federal laws and regulations. Earmark grantees, on the whole, have not previously received OVW grants, and are not familiar with VAWA. Therefore, substantial additional staff time and effort is required to administer earmarks.”

Even more concerning, a recent IG report found that earmarks are undermining DOJ’s Methamphetamine (Meth) Initiative to combat meth, which is the most prevalent manufactured drug illegally produced in the United States. A 2006 IG audit of the program found “Congress has designated approximately 84 percent of appropriated Meth Initiative funds to specific entities or locales for the past 8 years. Earmarked funds do not require projects to be vetted for duplication, necessity, fiscal accountability, or any other factor normally reviewed by a granting agency through the solicitation and selection process.”²²⁵

The Office of Community Oriented Policing Services, which administers the program, “has taken limited actions towards executing the Meth Initiative due to the restrictive nature of earmarked funds. As a result of the significant use of congressional earmarks in the Meth Initiative, available funding is not always directed to the areas of the country with the greatest need, and because of the earmarks the COPS Office has been unable to fully control the program,” according to the IG. Additionally, “The COPS Office did not develop a strategic

²²⁴Correspondence from Glen A. Fine, Inspector General of the Department of Justice, to U.S. Senator Tom A. Coburn, February 22, 2007.

²²⁵Department of Justice Office of the Inspector General. “The Office of Community Oriented Policing Services Methamphetamine Initiative; Executive Summary” Audit Report 06-16, March 2006, <http://www.usdoj.gov/oig/reports/COPS/a0616/exec.htm>.

approach for administering the meth program nor plan for the strategic disbursement of funds because of the significant use of congressional earmarks,” according to the IG.²²⁶

The IG audit found that:

“several grantees used grant funds to purchase items such as furniture and vehicles, which are generally prohibited by the guidelines the COPS Office issued for the program. However, the COPS Office allowed these purchases because of the grantees’ earmarked status. According to COPS officials, they did not believe that they were in the position to disallow the expenditures. In addition, not all COPS grant managers provided grantees with the manuals developed specifically for the Meth Initiative awards, and COPS officials informed at least one earmarked grantee that it did not have to comply with the guidance in the *Meth Grant Manuals*.”²²⁷

The COPS Office has not strategically analyzed or assessed the necessity or benefit of awarding funds to the earmarked entities. OIG auditors reviewed the distribution of funds from the inception of the program in FY 1998 through FY 2004, and compared the level of funding to the number of meth-related incidents reported to DEA’s El Paso Intelligence Center (EPIC) over the same period. The investigators found that “although certain states with high numbers of reported meth incidents have received significant funding through the Meth Initiative, other states with similar levels of reported meth incidents have not received similar funding” and “conversely, states with little or no reported meth seizures or arrests have received considerable resources through the program.” The IG concluded “As a result of the significant use of congressional earmarks in this program, funding is not always directed to the areas of the country with the most significant meth problem.”²²⁸

As mentioned previously, two recent DOJ earmarks for crime prevention costing nearly \$6 million not only failed to prevent crime, but are at the subject of ongoing investigations. As a result, DOJ and the taxpayers are not only paying for the cost of the earmarks, but also the cost of investigating how the earmark funding was misspent.

With the cost of simply administering earmarks for two DOJ programs exceeding \$10 million, another DOJ office reporting it spends substantial staff time and effort for the administration of earmarks, at least two DOJ earmarks being investigated for misuse of federal funds, many others misspending earmarked funds on unallowable expenses, and an independent investigation concluding that earmarking is compromising national drug control efforts, it is likely that the Department of Justice loses tens of millions of dollars, countless staff hours, and untold

²²⁶Department of Justice Office of the Inspector General. “The Office of Community Oriented Policing Services Methamphetamine Initiative; Executive Summary” Audit Report 06-16, March 2006, <http://www.usdoj.gov/oig/reports/COPS/a0616/exec.htm>.

²²⁷Department of Justice Office of the Inspector General. “The Office of Community Oriented Policing Services Methamphetamine Initiative; Executive Summary” Audit Report 06-16, March 2006, <http://www.usdoj.gov/oig/reports/COPS/a0616/exec.htm>.

²²⁸Department of Justice Office of the Inspector General. “The Office of Community Oriented Policing Services Methamphetamine Initiative; Executive Summary” Audit Report 06-16, March 2006; <http://www.usdoj.gov/oig/reports/COPS/a0616/exec.htm>.

opportunities to more efficiently target federal funds every year as a result of the excessive pet projects earmarked by Congress through DOJ.

RECOMMENDATIONS

- All DOJ grants should be awarded based upon merit, need, and ability to advance the mission of the Department under a fair and open competitive process. Congress should not be precluded from suggesting projects deemed worthy or necessary or questioning how funds may have been awarded, but should refrain from steering taxpayer funds to preferred organizations without providing other interested entities the ability to submit competitive bids for the project funding.
- If Congress refuses to subject earmarks to the same process that is required for disseminating other government grants, congressional reports accompanying bills containing earmarks should contain thoroughly detailed explanations as to why an entity is receiving an earmark, including a line-item budget of how the money is expected to be spent, the purpose of the project being funded, and what outcomes are anticipated.
- The Inspector General concluded that “to assist in measuring program effectiveness on a regular basis, [DOJ should] periodically review and assess individual grant outcomes and results.”²²⁹ DOJ should adopt this IG recommendation and make it a priority to assess and measure effectiveness of all DOJ grants including congressional earmarks. These assessments should be made publicly available.
- Recreational activities that cannot convincingly and conclusively demonstrate advancement of the DOJ’s mission should not be eligible for federal funding, including earmarks.
- To avoid misuse of funds on unallowable or questionable activities, earmark recipients should submit reimbursement forms for expenses. DOJ should review the requests and only provide funding for those activities that are legally permitted or are certified as advancing the mission of the Department.

²²⁹Department of Justice Office of the Inspector General. “The Office of Community Oriented Policing Services Methamphetamine Initiative; Executive Summary” Audit Report 06-16, March 2006; <http://www.usdoj.gov/oig/reports/COPS/a0616/exec.htm>.

NATIONAL DRUG INTELLIGENCE CENTER

Every year, millions of dollars for our national defense are siphoned away from the military's budget to pay for a single congressional earmark administered not by the Pentagon, but by the Department of Justice. This funding is directed to the National Drug Intelligence Center (NDIC), which the DOJ has asked Congress to shut down. DOJ believes the drug center's operations are duplicative and that reassigning NDIC's responsibilities would improve the management of counter-drug intelligence activities, allowing for funds to be spent on hiring additional drug enforcement officers.

According to its website, the NDIC exists to “coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations.”²³⁰ The Center was established in 1992 via an earmark in the Department of Defense appropriations bill.

With an average annual budget of nearly \$30 million, NDIC has drained more than half a billion dollars to date from national defense since inception, even though it has little to do with national defense and is administered by the DOJ, which would like to close the Center. At the same time, it has become routine for Congress to pass yearly emergency supplemental appropriations bills costing upwards of a \$100 billion each year to finance U.S. missions to combat terrorism.

It is unacceptable to misuse or misdirect defense dollars that are needed to protect our nation and our men and women in uniform to pay for unnecessary and duplicative projects.

NDIC IS DUPLICATIVE, UNNECESSARY AND UNWORKABLE

When first proposed in 1990, the NDIC was tasked with gathering information on the national drug war and be a resource for local and federal agencies.²³¹ Plans for NDIC were initially scuttled because of duplication and drug agency concerns, but as a result of language discreetly inserted into a Pentagon authorization bill by Congress, NDIC was established in Johnstown, Pennsylvania.²³²

“The center was troubled from the start,” according to *U.S. News & World Report*, noting that the “agency was funded by the Pentagon, but the Department of Justice was authorized to run it — an arrangement bound to cause problems.”²³³

When the NDIC opened, the Government Accountability Office issued a report noting that NDIC duplicates the activities of 19 drug intelligence centers that already existed.²³⁴ Fifteen of these

²³⁰ DOJ National Drug Intelligence Center, “About Us,” <http://www.usdoj.gov/ndic/about.htm>, accessed August 22, 2008.

²³¹ Tony Harris and Drew Griffin, CNN Newsroom, May 31, 2007.

²³² Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²³³ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²³⁴ “Drug Control; Coordination of Intelligence Agencies,” U.S. General Accounting Office, April 1993, <http://archive.gao.gov/t2pbat6/149104.pdf>.

primarily existed to “gather and analyze time-sensitive information such as current location and movement of specific drug smuggling activities” and the other four “generally produce information on long-term trends and patterns.”

In 2005, the center was labeled a “boondoggle” by *U.S. News & World Report*, which noted “the facility has run through six directors, been rocked by scandal, and been subjected to persistent criticisms that it should have never been created at all. ... But as any veteran of Washington’s budget wars will tell you, closing even a single federal program can be a herculean task. Perhaps no example is more illuminating than the NDIC.”²³⁵

From the beginning, the NDIC’s mission “just wasn’t workable” because, “in some cases, federal law prevented agencies from sharing sensitive intelligence; in others, rival agencies simply refused to give up proprietary information. Stonewalled, the NDIC began operating, effectively, as an extended staff for other drug agencies, working on projects too cumbersome, peripheral, or time-consuming for their own teams of intelligence analysts. The center was costing taxpayers about \$30 million a year, but, as a former official of the drug czar’s office put it bluntly, ‘we saw nothing from it’.”²³⁶ A Pennsylvania newspaper, *The Centre Daily News*, noted in 2007 that “the NDIC has persisted, despite lingering questions about its effectiveness in coordinating the efforts of federal authorities to collect and analyze intelligence on the domestic trafficking of cocaine, heroin, methamphetamine and other drugs.”²³⁷



The usefulness and quality of NDIC’s reports has even been questioned by a former director of the Center, Mike Horn. Horn confessed, “I recognized that a lot of reports were God-awful, poorly written, poorly researched, and, in some cases, wrong.”²³⁸

A MISSION TO HAVE A MISSION — NDIC SEARCHES FOR A PURPOSE TO JUSTIFY ITS EXISTENCE

Over the last 15 years, NDIC’s purpose has frequently changed. Initially the center’s mission was to “coordinate intelligence collection and promote information sharing by law enforcement agencies.”²³⁹ Because its mission duplicated that of 19 other agencies and its data was not very useful to the other drug control agencies,²⁴⁰ NDIC and its congressional supporters have attempted to find a purpose to justify its continued existence.

²³⁵ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²³⁶ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²³⁷ Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” *Centre Daily News*, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html>.

²³⁸ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005; <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²³⁹ “Drug Control; Coordination of Intelligence Agencies,” U.S. General Accounting Office, April 1993, <http://archive.gao.gov/t2pbat6/149104.pdf>.

²⁴⁰ Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” *Centre Daily News*, June, 30, 2007; <http://www.centredaily.com/news/state/story/140171.html>.

Jim Milford, a former NDIC deputy, admitted “I’ve never come to terms with the justification for the NDIC” and “the bottom line was that we had to actually *search* for a mission.”²⁴¹ As such, the NDIC switched its mission to collect and analyze intelligence already available to the public to provide policy makers with an overview of the war on drugs.

In 2000, the Clinton Administration tried to define the center’s role more sharply by releasing the General Counterdrug Intelligence Plan, which restricted the reach of the Johnstown center to domestic intelligence only. NDIC then began to develop software capable of analyzing documents seized by other agencies, called Real-time Analytical Intelligence Database (RAID) software.²⁴² Despite the NDIC’s domestic mandate, NDIC director Mike Horn and his assistant, Mary Lou Rodgers, made frequent trips abroad to promote a new version of NDIC’s RAID software. They traveled to places like Hong Kong, London, and Vienna, racking up nearly \$164,000 in travel expenses in less than four years, which resulted in an audit and admonishment by DOJ.²⁴³ A recent review discovered that the new version of the RAID software promoted by Horn had not been developed at that point.²⁴⁴

Recently, Acting Director Irene S. Hernandez defined NDIC’s mission as assessing broad trends of the drug-trafficking situation.²⁴⁵

In addition to its attempts to collect drug intelligence data and develop software, NDIC has sought to become involved in the Iraq conflict, terror incident training, post-disaster relocation and managing the federal “no fly” list.²⁴⁶

Given the number of mission changes, it is not surprising NDIC has repeatedly been labeled as wasteful and non-productive. If anything, NDIC’s mission has been to have a mission that justifies its existence.

NDIC TOUTS EXPENSIVE AND REDUNDANT SOFTWARE

Even NDIC’s newer initiative – being promoted as a success by the center – replicates software that is already available and outperforms the software developed by NDIC at a lower cost.

In a June 2007 press release, NDIC touted the use of forensic computer examination software and data in Iraq that was developed by the center.²⁴⁷ The software/database, called HashKeeper, compares the electronic signatures of individual files, also called “hashes.” A collection of hashes, which are essentially digital fingerprints, for an entire piece of software is referred to as a

²⁴¹ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁴² Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁴³ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁴⁴ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁴⁵ Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” *Centre Daily News*, June, 30, 2007, <http://www.centredaily.com/news/state/story/140171.html>.

²⁴⁶ Richard Willing. “Transfer of terrorist no-fly list ‘earmarked’?,” *USA TODAY*, June 13, 2007, http://www.usatoday.com/news/washington/2007-06-13-congress-earmarks_N.htm.

²⁴⁷ NDIC Press release on HashKeeper software in Iraq, June 29, 2007, <http://www.usDOJ.gov/ndic/prs/07dod/07dod.htm>.

“hash set.” Forensic computer examiners use hashes and hash sets to eliminate the need to search certain files on a seized computer.

However, HashKeeper duplicates existing software currently in use by the federal government. The National Software Reference Library, a program within the National Institute of Standards and Technology (NIST), already maintains a far more comprehensive database of hashes and hash sets. According to the NIST, “There is... a lower level of confidence in the HashKeeper data.” Unlike HashKeeper, NSRL’s File Identification Information (FII) is admissible in court as evidence, is updated every three months and can be purchased for \$90 per year.²⁴⁸ The software needed to compare and verify the hash value of analyzed data can be downloaded online for free.²⁴⁹

While the use of hashes and hash sets to examine seized computers in Iraq is undoubtedly a worthwhile effort, there is no reason for the federal government to continue to send millions of dollars a year to NDIC to support software that is produced at a lower cost by another federal government agency better equipped for such research.

ELIMINATING NDIC COULD IMPROVE ANTI-DRUG EFFORTS

In its budget report, the OMB says “the proliferation of intelligence centers across the government has not necessarily led to more or better intelligence, but rather more complications in the management of information.”²⁵⁰ OMB spokesman, Sean Kevelighan, said NDIC has “been slow to delineate a unique or useful role within the drug intelligence community.” For that reason, the OMB’s 2008 budget request “fully funds all shutdown costs” for NDIC at a cost of about \$16 million, he said.²⁵¹ If enacted, this would save the taxpayers \$23 million this year and more than \$30 million every year thereafter and help to streamline federal drug intelligence operations.

John Carnevale, a former ONDCP official who worked under three administrations and four drug czars, said the center’s work was of no value to him when he was in government. “I had access to the data well before they did,” said Carnevale. “So I pretty much ignored them.”²⁵²

Eric Sterling, president of the Criminal Justice Policy Foundation, an advocacy group based in Maryland, said, “In many respects it seems that their stuff is out of date. ... I would describe it as a tool of limited value.”²⁵³

²⁴⁸ E-Mail from NIST Congressional Liaison, July, 9, 2007, 5:11 PM.

²⁴⁹ Purchase price (\$150) of an annual subscription of existing hash data, derived primarily from MIST:

<http://www.dmares.com/cgi-bin/ccp5/cp-app.cgi?usr=50X1501222&rnd=2186521&rrc=N&cip=69.143.1.115&pg=prod&ref=1500&cat=>; Free software to compare “hash” data, updated on June 19, 2007, <http://www.karenware.com/powertools/pthasher.asp>.

²⁵⁰ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁵¹ Daniel Lovering. “Official: disputed Pa. facility plays vital part in drug war,” *Centre Daily News*, June 30, 2007.

²⁵² Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁵³ Bret Schulte. “A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on,” *U.S. News World & Report*, May 9, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

Instead of spending tens of millions of dollars every year on a center of little value to drug enforcement efforts, these resources could be redirected to hiring more Drug Enforcement Agency (DEA) agents or spent on actual defense needs.

NDIC'S CREATION AND SURVIVAL BASED LARGELY ON LOCATION, RATHER THAN ITS MISSION

It would seem, location, not productivity and usefulness, has been the reason for maintaining NDIC funding. According to a local newspaper, "Critics have also questioned the center's location 140 miles from Washington, citing political maneuvering by [Congressman] Murtha. ... Watchdog groups and lawmakers have blasted it as a pet project of U.S. Rep. John Murtha, whose special funding requests — or earmarks — have sustained the center since it opened in his home district in the early 1990s. It has been derided as a product of pork barrel spending and an unnecessary outgrowth of the war on drugs that duplicates work done elsewhere."²⁵⁴

Headquartered in a renovated department store in downtown Johnstown, Pennsylvania, the center has brought nearly 400 federal jobs to Johnstown. According to *U.S. News & World Report*, law enforcement agencies, ordered to send employees to the new center, had trouble finding skilled analysts or executives who would agree to live in Johnstown, which is more than 100 miles from the nation's capital. Even the bosses did not want to move to the city. The first director, former FBI official Doug Ball, traveled back and forth from his home near Washington. His deputy, former DEA agent Jim Milford, did the same and made no bones about it. "I've never come to terms," Milford says, "with the justification for the NDIC."²⁵⁵ John Carnevale, a former official with the Office of National Drug Control Policy, who supported the concept of the NDIC, said "none of us wanted it in Johnstown. We viewed it as a jobs program that Mr. Murtha wanted [for his district]."²⁵⁶ In an interview with *U.S. News World & Report*, Murtha stated "Obviously, I wanted it in my district. I make no apologies for that."²⁵⁷

NDIC ALSO PLAGUED BY LOW MORALE, LACK OF LEADERSHIP, AND SCANDAL

In addition to problems with drifting and duplicative missions, NDIC has also suffered from high turnover of directors resulting in a lack of leadership, low morale, and even a scandal involving international junkets funded with tax dollars. *The Centre Daily News* notes that "Over the years, directors have come and gone, in one case under a cloud of scandal."²⁵⁸ Many NDIC insiders say morale at the center was poor. NDIC employees accused Horn of continued travel abuse and cronyism, prompting another review by the DOJ in 2004.

²⁵⁴ Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," *Centre Daily News*, June, 30, 2007, <http://www.centredaily.com/news/state/story/140171.html>.

²⁵⁵ Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁵⁶ Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁵⁷ Bret Schulte. "A Drug War Boondoggle: The White House wants to kill it, but a little government agency may manage to live on," *U.S. News World & Report*, May 1, 2005, <http://www.usnews.com/usnews/news/articles/050509/9ndic.htm>.

²⁵⁸ Daniel Lovering. "Official: disputed Pa. facility plays vital part in drug war," *Centre Daily News*, June, 30, 2007, <http://www.centredaily.com/news/state/story/140171.html>.

In March 2004, Associate Deputy Attorney General David Margolis suspended Horn's power to authorize travel for his assistant Mary Lou Rodgers. In June 2004, Margolis fired Horn. The DOJ would not comment to the media on the matter.²⁵⁹ Horn claims all travel was approved and says he has not been made to pay restitution, and blames low morale on malcontents who resented the quality of work he demanded.

RECOMMENDATIONS

- Close NDIC to save money and streamline federal drug enforcement activities. While some of the goals of NDIC are worthy, the existence of the center is unnecessary and actually siphons resources away from both counter-drug and defense activities.
- Transfer NDIC resources to other federal drug law enforcement agencies that could better use them. For example, the DEA, the primary agency responsible for federal drug law enforcement, has a hiring freeze and has cut operations and intelligence program funding by approximately 13% to make it through the fiscal year. Lifting the hiring freeze for DEA would cost an additional \$31 million for FY 2008 above the \$27 million base adjustment.

²⁵⁹ Daniel Lovering, "Official: disputed Pa. facility plays vital part in drug war," *Centre Daily News*, June, 30, 2007, <http://www.centredaily.com/news/state/story/140171.html>.

INEFFECTIVE & DUPLICATIVE DOJ PROGRAMS HINDER THE DEPARTMENT'S MISSION

Established in 1984, DOJ's Office of Justice Programs (OJP) houses most of the Justice grant programs that provide assistance to state and local governments and private entities.²⁶⁰ Despite excellent intentions and laudable goals, many of these grant programs have shown little effectiveness in reducing crime, are duplicative of other federal and state law enforcement efforts, and are wrought with government waste typical of many federal programs. Community Oriented Policing Services (COPS), one of a few major grant-awarding programs that does not fall under the scope of OJP but is an independent agency at the Department, is unfortunately subject to many of the same concerns surrounding OJP programs, including duplication, ineffectiveness, and waste of taxpayer dollars.

The Department of Justice's Office of the Inspector General annually lists the agency's top "management problems," providing detailed information on each area of concern. The IG website currently displays the top management issues from 2000 to 2007. Unfortunately, "grant management" has been listed every single year as a top challenge for the Department. The IG stated, "Grant management is a continuing top challenge, with the Department awarding approximately \$3 billion in grants in FY 2007 and approximately \$23 billion in the previous 7 years. Yet, the Department components that award *grants still lack adequate financial and programmatic oversight* of their varied grant programs, and they have yet to develop consistent mechanisms to assess the effectiveness of their grant programs, raising questions about how effectively these grant funds are being spent. ... These are well known problems, but over the years we *have not seen significant improvement* in how the Department manages these programs" (emphasis added).²⁶¹

Annually, DOJ provides hundreds of millions of dollars in local law enforcement grants to communities across the country, many of which have come under considerable scrutiny for waste and inefficiencies. Given the enormity of these grants, this report examines only two small grant programs; however a later report will focus on the DOJ grant programs in depth.²⁶²

Although the fiscal damage these deficient programs bring upon the federal budget and taxpayers is noteworthy in its own right and should be addressed, this matter extends beyond the taxpayers' pocket book. In a post-9/11 era, DOJ has been tasked with fighting terrorism at home and abroad, and the millions of dollars wasted by inefficient DOJ programs could have been and should now be directed to further DOJ efforts to protect this country from harm.

²⁶⁰ National Archives Website, Guide to Federal Records, Records of the Law Enforcement Assistance Administration, <http://www.archives.gov/research/guide-fed-records/groups/423.html>, accessed August 22, 2008.

²⁶¹ DOJ Office of the Inspector General, Top Management Issues, <http://www.usdoj.gov/oig/challenges/index.htm>, accessed August 27, 2008.

²⁶² For more information on other DOJ grant programs, please see the following reports: Office of Management and Budget, PART Assessment, COPS program, 2002, <http://www.whitehouse.gov/omb/expectmore/detail/10000164.2002.html> ; and "What Taxpayers Should Ask About COPS," The Heritage Foundation, October 18, 2000, <http://www.heritage.org/research/crime/EM701.cfm>

OFFICE OF JUSTICE PROGRAMS TECHNICAL ASSISTANCE & TRAINING

The Department of Justice provides training and technical assistance (TA&T) to local law enforcement units and others in the criminal justice field.²⁶³ Specifically, this assistance includes “information sharing, conferences and workshops, strategic planning, and staff development.”²⁶⁴ DOJ also offers regional financial management training seminars, grant writing workshops, and technology training, among other services to various arms of law enforcement, including juvenile justice, the court system, victims of crimes, and terrorism preparedness.²⁶⁵

DOJ’s many technical assistance and training grants are administered through various Office of Justice Programs bureaus and program offices and are not consolidated within one program. As such, these grants have multiple funding sources and are designed in accordance with the specific mandates associated with various OJP bureaus or program offices. Most TA&T funding is awarded through discretionary grants. However, the OJP may determine that funding from existing block and formula grants can be used for technical assistance. In addition, Congress may legislate that funds from block and formula grants be set aside for specific TA&T programs. Although many OJP bureaus and program offices awarded TA&T grants, in the past, the OJJDP and the Bureau of Justice Assistance (BJA) awarded the vast majority of total TA&T grant dollars.

In 2004, the DOJ Inspector General conducted a full audit of TA&T grants between 1995 and 2002. The IG report focused on 158 grants totaling \$312.5 million that were exclusively for TA&T and awarded by OJP. The report consisted of audits for 21 of the grants, adding up to \$77.7 million, or 25% of the total TA&T grant dollars awarded.

The IG audit revealed that the majority of technical DOJ assistance grants are not subject to program and financial monitoring. In addition, the report showed there was little coordination between the program offices and OJP’s Office of the Comptroller. With respect to OJP, the report found that grant managers did not ensure that all required financial status reports and progress reports were submitted in a timely and accurate manner. Other monitoring requirements also were not being adhered to, and communications between grantees and grant managers were not documented properly.

The IG report recommended that grant managers receive annual training to ensure they are knowledgeable about OJP’s requirements for submission of timely and accurate reports, grant-monitoring, and grant closeout procedures. In addition, it recommended OJP bureaus work with grantees to develop performance or outcome measures to assess the effectiveness of technical assistance and training grants.

The IG audit disclosed the following deficiencies in the OJP’s administration of TA&T grants:

²⁶³ All information in this section found at: DOJ Office of the Inspector General, Office Of Justice Programs, Technical Assistance And Training Program, Audit Report 04-40, September 2004, <http://www.usdoj.gov/oig/reports/OJP/a0440/final.pdf>.

²⁶⁴ DOJ, Office of Justice Programs, Technical Assistance and Training website, <http://www.ojp.usdoj.gov/training/training.htm>, accessed September 20, 2008.

²⁶⁵ DOJ, Office of Justice Programs, Technical Assistance and Training website, <http://www.ojp.usdoj.gov/training/training.htm>, accessed September 20, 2008.

- \$5.2 million (of the \$78 million examined) in questioned costs and funds that could be put to better use. In addition, a formal investigation was launched, based on audit results, to examine one grantee’s expenditures and business practices.
- Eight grantees claimed and were reimbursed for costs not supported by their accounting records, costing more than \$1.5 million.
- Seven grantees claimed and were reimbursed for unapproved or prohibited expenditures totaling more than \$300,000.
- One program, Children’s Hospital in St. Paul, Minnesota, drew down excess funds and transferred excessive funds between budget categories without written approval from the OJP.

Other IG Complaints about the TA&T Grants:

- “[F]or all of the grants in our sample, [grant] monitoring efforts were deficient.”
- “The OJP is not collecting sufficient data to measure the performance of TA&T grants ... for the 21 grants that we audited, it was not possible to assess the impact of the TA&T program and determine whether the grants were achieving their intended purposes.”
- “Without proper evaluation, the OJP cannot determine whether the grants it awards are an appropriate use of Department funds.”
- “OJP does not require grant managers to formally evaluate the success or failure of a grant.”

RECOMMENDATIONS

- DOJ should require performance and outcome measures of any OJP grant that has a training and technical assistance component.
- When considering legislation that creates new sources of TA&T funding, Congress should evaluate whether that funding would be permissible under an existing grant program.
- TA&T grant purposes should not be duplicative.
- Congress should require DOJ to specifically track the amount spent on TA&T grants, the purposes for which they are awarded, explanations for how the funds were spent, and the eventual outcome of such assistance.

WEED AND SEED PROGRAM

Weed and Seed is an initiative of the Community Capacity and Development Office under OJP at the Department of Justice. The Weed and Seed program provides funding to local “Weed and Seed Communities” for the purpose of reducing crime and “improving the neighborhood.”²⁶⁶

Program participants are tasked with “weeding” and “seeding” activities. Law enforcement agencies and prosecutors cooperate in *weeding* out violent criminals and drug abusers. Public agencies and community-based private organizations collaborate to *seed* human services, including prevention, intervention, treatment, neighborhood restoration, and homebuyer assistance programs.



Even though the program was first authorized in 2005, Weed and Seed has received appropriations since 1993.²⁶⁷ In FY 2008, the program received \$32 million.²⁶⁸ Grants are issued to communities for up to \$1 million over a five-year period. Congress has appropriated more than \$252 million for the Weed and Seed program over the past five years.

Funding for the Weed and Seed Program, Fiscal Years 2004 - 2008²⁶⁹

2004	2005	2006	2007	2008
\$58,542,000	\$62,000,000	\$50,000,000	\$49,361,000	\$32,100,000

Lack of Results to Demonstrate Effectiveness. While Weed and Seed grants are popular sources of funding for many communities and the program’s goals may be laudable, few studies are available to demonstrate the effectiveness of the program and numerous reports suggest that the initiative is duplicative of multiple other federal efforts, including several at DOJ.

The Office of Management and Budget’s (OMB’s) Performance and Management Assessments of the Weed and Seed found that results are not demonstrated and the measures are inadequate for the program. According to OMB’s analysis, “The assessment indicates that many jurisdictions have actively sought DOJ’s assistance in developing local Weed and Seed strategies, but the large number of active projects has led to inconsistent oversight and results. Additional findings include:

“1. While Weed and Seed had selected good performance objectives, such as lower homicide rates, it lacks the data to specify a ‘baseline’ against which improvements can be measured.

²⁶⁶ Nathan James, CRS RL33489: “An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs,” January 16, 2008, http://www.congress.gov/erp/rl/html/RL33489.html#TOC2_8.

²⁶⁷ Nathan James, CRS RL33489: “An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs,” January 16, 2008, http://www.congress.gov/erp/rl/html/RL33489.html#TOC2_8.

²⁶⁸ Nathan James, CRS RL33489: “An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs,” January 16, 2008, http://www.congress.gov/erp/rl/html/RL33489.html#TOC2_8.

²⁶⁹ Nathan James. “An Overview and Funding History of Select Department of Justice (DOJ) Grant Programs,” Congressional Research Service, January 16, 2008.

Furthermore, DOJ has been averse to setting goals implying that any level of crime is “successful.”

“2. Despite the program’s 11-year history, only a limited number of Weed and Seed sites have been independently evaluated. Those results have been promising, but difficult to generalize given the wide variation in local strategies and effectiveness.”²⁷⁰

According to Weed and Seed Data Center’s website, which is funded by DOJ, there are “more than 300 Weed and Seed sites” in the U.S.²⁷¹ The site notes that “in order to comply with the Government Performance and Results Act (GPRA), all federal agencies must collect program data, which can be used by Congress to evaluate the effectiveness of federal programs. On this site you will find Weed and Seed communities’ latest GPRA reports” as well as “various reports including evaluations of individual Weed and Seed efforts.”²⁷² Yet, very few recent studies are available. In fact, no nationally initiated studies on the program have been made available that were conducted since August 1999, nearly a decade ago,²⁷³ and only six locally initiated studies of Weed and Seed communities have been conducted since 2001 are available.²⁷⁴

Duplicative of Other Federal Grant Programs. Weed and Seed duplicates activities funded by other federal grant programs, including:

Edward Byrne Memorial Justice Assistance Grant and Byrne Discretionary Grant — The Weed and Seed program duplicates Byrne/JAG’s grant purposes: (1) multi-jurisdictional task forces to integrate federal, state and local law enforcement efforts, (2) educational prevention programs, (3) community policing, and (4) drug treatment programs. In addition, the new Byrne Competitive Grant, like Weed and Seed, may also be used for overtime pay to personnel.²⁷⁵

Community Oriented Policing Services — Like Weed and Seed, COPS grants fund (1) hiring, training, and paying overtime for police officers, (2) community policing, and (3) linking community organizations and residents with local law enforcement. For example, in Asheville, North Carolina, Weed and Seed’s first installment of a \$975,000 grant is paying for the overtime pay of local police officers with plans to use future installments to increase community policing.²⁷⁶ Congress funded COPS at \$547 million in FY 2007 and \$587 million in FY 2008.

²⁷⁰ “Performance And Management Assessments,” Office of Management and Budget, <http://www.whitehouse.gov/omb/budget/fy2004/pma/weedandseed.pdf>

²⁷¹ “The Weed & Seed Strategy,” Weed and Seed Data Center website, sponsored by the Community Capacity Development Office, U.S. Department of Justice, accessed October 26, 2008, <http://www.weedandseed.info/docs/strategy.htm>

²⁷² Weed and Seed Data Center website, sponsored by the Community Capacity Development Office, U.S. Department of Justice, accessed October 26, 2008, <http://www.weedandseed.info/>

²⁷³ “Nationally Initiated Studies,” Weed and Seed Data Center website, sponsored by the Community Capacity Development Office, U.S. Department of Justice, accessed October 26, 2008, <http://www.weedandseeddatacenter.org/docs/studies-national.htm>

²⁷⁴ “Locally Initiated Studies,” Weed and Seed Data Center website, sponsored by the Community Capacity Development Office, U.S. Department of Justice, accessed October 26, 2008, <http://www.weedandseed.info/docs/studies-local.htm>

²⁷⁵ Edward Byrne Memorial Competitive Grant Program: National Initiatives FY2008 Grant Announcement, May 6, 2008, <http://www.ojp.usdoj.gov/BJA/grant/08ByrneCompSol.pdf>

²⁷⁶ Boatwright, Josh, “Weed and Seed promotes hope in crime-ridden areas,” *Citizen Times*, May 10, 2008

Community Development Block Grants (CDBG) — Like Weed and Seed, Housing and Urban Development’s (HUD) CDBG program funds (1) neighborhood restoration projects and (2) assistance to purchase homes by funding down payments and closing costs. As an example, in the Madisonville neighborhood of Cincinnati, OH, much of the \$750,000 Weed and Seed funds were devoted to “upgrade” the center of the neighborhood with a “new community arts center for exhibitions, meetings, plays and concerts” and plans to redevelop other buildings in the area.²⁷⁷ Cincinnati already receives over \$15 million annually from CDBG funds at \$53 per capita — one of the highest rates of any other recipient community.



Center for Substance Abuse Treatment (CSAT)

Like Weed and Seed, CSAT provides grants for drug treatment programs. CSAT is part of the Substance Abuse and Mental Health Services Administration at the Department of Health and Human Services.

WEED AND SEED GRANTS UNDER FEDERAL INVESTIGATION AND USED FOR QUESTIONABLE ACTIVITIES

A number of Weed and Seed programs have come under investigation for misusing federal funds.

- Federal investigators subpoenaed police grant records from Methuen, Massachusetts, when investigators determined the local police lacked supporting payroll documents for three years of a Weed and Seed grant. According to a letter sent to the city, the DOJ’s Office of the Inspector General found “numerous instances where there were no supporting records documenting the hours reportedly worked by some Methuen Police Department employees.”²⁷⁸ After it was discovered that the local police chief authorized an assistant to “triple-dip” by receiving two sets of federal overtime funds on top of her salary, federal officials demanded that Methuen, Massachusetts return \$170,000 of “Weed and Seed” grant money.²⁷⁹ A 50-page report released in May found that it is impossible to tell the police chief, who was fired, his secretary, and four superior officers actually worked the hours they were paid for out of a \$1.125 million federal Weed and Seed grant.²⁸⁰

²⁷⁷ McKee, Tom. “Madisonville ‘Weed & Seed’ Could Be National Model,” WCPO News, May 13, 2008

²⁷⁸ Stephanie Chelf. “Feds: How did some cops earn \$170k? More Methuen police payroll records demanded,” *Eagle-Tribune*, June 4, 2007; http://www.eagletribune.com/permalink/local_story_155093830

²⁷⁹ Kytja Weir. “Methuen police chief fired; mayor says it’s time to ‘move on,’” *The Boston Globe*, May 7, 2008; http://www.boston.com/news/local/breaking_news/2008/05/methuen_police_1.html

²⁸⁰ Jill Harmacinski. “Drugs, weapons, evidence found in Solomon’s locker,” *The Eagle-Tribune*, May 13, 2008.

- In Lawton, Oklahoma, the director of a Weed and Seed program, was found guilty for stealing the program's money by diverting funds through a nonprofit organization and then using the money for personal expenses on the nonprofit's credit card.²⁸¹
- The Weed and Seed program in Pittsburgh, Pennsylvania, "is trying to recover from rampant staff churn, resolve accounting disputes with federal overseers, reconnect with neighborhood leaders and pinpoint dozens of unaccounted for computers and printers," according to the *Pittsburgh Post-Gazette*. Department of Justice accountants sent a six-page letter to Mayor Luke Ravenstahl in November 2006 indicating that Pittsburgh had not kept track of time staff spent on Weed and Seed, failed at "monitoring of equipment and inventory procedures," and used \$31,145 that was not authorized on TV ads, computers and other expenses." Among the items purchased were at least 18 laptop computers, 25 desktop computers with flat panel monitors, 17 printers including one costing \$3,071, a \$5,000 network server, 20 DVD movie writers for \$696 each, 11 digital projectors, digital cameras and much more. City officials could not find at least \$55,350 in electronic equipment, including six laptop computers, 10 notebook computers, four handheld computers, 10 digital projectors, 10 digital cameras, 14 printers, and one flat-panel monitor. At one point, the Weed and Seed office was stacked floor-to-ceiling with computers, and no one knew where they were supposed to go and since late 2005, 10 people have held the three mayor's office posts dedicated to the Weed and Seed program. That turnover "has substantially impacted the continuity of our program," said U.S. Attorney Mary Beth Buchanan, whose office oversees the effort.²⁸²
- The Weed and Seed program in Easton, Pennsylvania, has faced a series of problems. Two community coordinators quit and a state audit questioned some of the program's expenses. The state ruled that the city had double-billed some office expenses and the city eventually returned about \$32,000 to the state. In addition, the Easton Economic Development Corp., the nonprofit agency that had been in charge of Weed and Seed for a time, returned another \$22,000 to the state. The county is seeking to recoup another \$1,200 that auditors identified as being improperly spent on telephone, office supply, copy and postage expenses. A portion of its grant was approved to be spent to improve a neighborhood park and pay for consultants.²⁸³

A review of other Weed and Seed programs reveals that federal funds have been spent on questionable activities that may or may not have advanced the mission of the Department of Justice. Recent examples include:

- A *Philadelphia Inquirer* review found that "some federal Weed and Seed grants seemingly have more to do with politics than crime-fighting. Grants are running out in some high-crime cities—like Camden—while new money goes to small towns with little

²⁸¹ "Former Justice Department program leader gets prison term," *The Associated Press*, June 20, 2008; http://www.tulsaworld.com/news/article.aspx?articleID=20080620_12_Thefo68740.

²⁸² Rich Lord. "CITY TRYING TO REVIVE CHAOTIC WEED AND SEED EFFORT," *Pittsburgh Post-Gazette*, page A1, August 13, 2007.

²⁸³ Paul Muschick. "Auditors: Money for Weed, Seed properly spent; Since probe, Easton has used county grant to improve park," *Morning Call*, January 31, 2005.

drug-dealing or violence. When Upper Darby became a Weed and Seed site before the November elections last year, then-Senator Rick Santorum held a news conference to announce the \$175,000 award. He said the money would go toward ‘weeding out violent criminals and drug abusers.’ Upper Darby is hardly a trafficking hotbed. Last year, the township didn’t report the arrest of a single drug pusher. Instead, in its Weed and Seed application, Upper Darby said it would use the money to enforce ‘nuisance statutes’ and state liquor laws in Stonehurst, a low-income, mostly African American neighborhood. Other Weed and Seed cities have the same issues, a review shows. Although the program was founded on the idea of enlisting communities in crime-fighting, many grants now go to nearly all-white departments that aggressively enforce minor statutes in neighborhoods that are home to large numbers of minorities. Upper Darby, with one black officer on a force of 127, is one of the whitest departments its size in the nation. Bristol Township has 69 officers, none black.”²⁸⁴

- In North Carolina, a free “Shred-a-thon,” where locals are invited to bring up to one box load of old bank statements, bills, and outdated personal papers to be transformed into mulch for the Community Peace was funded in part by the West Asheville District Weed and Seed Grant.²⁸⁵
- This summer in Ohio, the Youngstown North Side Weed and Seed offered lawn mower maintenance sessions to youths from the North Side. With this program, Rick George, associate director of the Center for Human Service Development at Youngstown State University, hopes to give area youth the knowledge and tools to start cutting grass as a job and as a way to clean up their neighborhood.²⁸⁶
- Etiquette classes to teach kids the appropriate way to act in certain situations were also expected to be provided by the Youngstown North Side Weed and Seed.²⁸⁷
- Indianapolis, Indiana, spent some of the \$175,000 Weed and Seed grant it received in 2007 to start an indoor soccer program. Scott Rosenberger, site coordinator, said new ideas are needed for how the federal money should be spent this year because “after the excitement of getting the grant last year, interest kind of trailed off.”²⁸⁸
- As part of the Weed and Seed project of Allentown, Pennsylvania, government grant money has been provided to a hip-hop class to offer lessons to youth.²⁸⁹

²⁸⁴ Mark Fazlollah and Keith Herbert. “Some Weed and Seed efforts shifting from original intent,” *The Philadelphia Inquirer*, December 18, 2007.

²⁸⁵ Leslie Boyd. “Fight identity theft: Shred old documents for free,” *Asheville Citizen-Times*, October 22, 2008; <http://www.citizen-times.com/apps/pbcs.dll/article?AID=2008810220308>.

²⁸⁶ “Weed and Seed seeks lawnmowers for Youngstown youth,” *The Vindicator*, June 21, 2008; <http://www.vindy.com/news/2008/jun/21/weed-and-seed-seeks-lawnmowers-for-youngstown/?newswatch>.

²⁸⁷ “Weed and Seed seeks lawnmowers for Youngstown youth,” *The Vindicator*, June 21, 2008; <http://www.vindy.com/news/2008/jun/21/weed-and-seed-seeks-lawnmowers-for-youngstown/?newswatch>.

²⁸⁸ John Tuohy. “Eagledale neighborhood seeks ideas for fighting crime,” *Indianapolis Star*, October 17, 2008; <http://www.indystar.com/apps/pbcs.dll/article?AID=/20081017/LOCAL1802/810170507/1195/LOCAL18>.

²⁸⁹ Jaye Kinnard. “Scene Makers: Local hip-hop producers Indaglo on bringing beats to Musikfest,” *The Baltimore Sun*, August 4, 2008; www.baltimoresun.com/topic/me-arc-indaglo,0,4213639.story.

- A Weed and Seed grant paid to send 100 California elementary school sixth-graders to camp this past summer. “At night, students sang songs around the campfire and slept in tents. During the day they learned about wildlife, explored a creek for living organisms and even caught a glimpse of a sleeping bear,” according to a local press report.²⁹⁰
- “Dance instruction and performance opportunities” and “Nutrition Workshops” are listed as components of the “*Prevention, Intervention and Treatment strategy* is to address and identified [sic] risk factors in the target areas” for Atlanta, Georgia’s Weed and Seed program.²⁹¹ Among the accomplishments touted by the city’s Weed and Seed program include renovation of dilapidated businesses in target areas including Ardens Gardens, a fruit drink company, which has brought at least 7 new jobs and reactivated a once vacant building.²⁹²
- During the past decade, the city of Pittsburgh has spent tens of thousands of dollars provided by Weed and Seed on soccer and rugby clubs and provided funds to an organization that denied at-risk kids entry to its facilities. A local television station found: \$28,000 went to the Fox Chapel Soccer Club to hold a clinic in the city; \$16,000 to a rugby club for another clinic and to pay membership fees and buy uniforms for the rugby team; and \$15,000 went outside the city to the borough of Homestead to pay for a Weed and Seed coordinator. One of the organizations that has received money in the past, the Kingsley Association in Larimer, has refused entry for use of the group’s facility to kids that have not paid a membership fee.²⁹³
- New Mexico’s Las Cruces Weed and Seed program hosted a Talent Show Family Night.²⁹⁴
- The City of Modesto Parks, Recreation and Neighborhoods Department’s Maddux Youth Center and the Paradise South Weed and Seed Project presented a break dance competition²⁹⁵ and offered Hip-Hop/Modern Jazz dance classes. “The Hip-Hop and Modern Jazz dance class will focus on the fundamentals of contemporary dance techniques, including stretching, center floor techniques, movement across the floor, progressions and dance routines,” according to the city.²⁹⁶

While many of these events may have been fun or even educational recreational events for children, adolescents and teenagers, it is difficult to demonstrate how these differ from activities funded by other federal grants or how they may have actually had a positive impact on reducing

²⁹⁰ Monica Rodriguez. “Camp Trask up to the task; Philadelphia Elementary students study wildlife,” *The Inland Valley Daily Bulletin*, June 9, 2008; http://www.dailybulletin.com/ci_9535198.

²⁹¹ “OPERATION WEED AND SEED; CITY OF EAST POINT, GEORGIA,” City of East Point, Georgia website, accessed October 27, 2008; <http://www.eastpointpolice.org/ws2.htm>.

²⁹² “OPERATION WEED AND SEED; CITY OF EAST POINT, GEORGIA; NEIGHBORHOOD RESTORATION,” City of East Point, Georgia website, accessed October 27, 2008; <http://www.eastpointpolice.org/ws3.htm#NEIGHBORHOODRESTORATION>.

²⁹³ Rick Earle. “Local Activist Questions Where Weed And Seed Money Is Going; A Federal Program To Help Kids May Not Be Reaching Those In Need,” WPXI Channel 11, July 21, 2008; <http://www.wpxi.com/news/16945287/detail.html>.

²⁹⁴ “Weed & Seed digging up local talent,” *Las Cruces Sun-News*, March 14, 2008.

²⁹⁵ The city of Modesto news release. “MIX AT 615’ PRESENTS BREAK DANCE COMPETITION,” May 8, 2008.

²⁹⁶ The city of Modesto news release. “FREE DANCE CLASSES AT MADDUX YOUTH CENTER,” May 28, 2008.

crime in an area. Clearly, at this time when our nation faces a heightened threat of domestic terrorism, local communities should pay for these types of activities and federal funds should be focused on investigating, locating, and prosecuting terrorists.



DOJ “Weed and Seed” grants seek to prevent crime with lawn mowing and summer camp for kids.

RECOMMENDATION

- Eliminate the Weed and Seed program, since numerous other DOJ grants may be used for the same purpose.
- Consolidate existing Weed and Seed initiatives into the existing programs that it replicates.

BILLIONS OF DOLLARS IN GRANTS MISMANAGED BY DOJ²⁹⁷

Closing out a grant is a key step in the grant management process. It is the point in time where:

- Unspent surplus funds are cut off and redirected to the Treasury;
- Final account is made for how funds were spent, allowing for the identification of inappropriate spending and recovery of such funds from the grantee; and
- Final evaluation is conducted of grant outcomes, shedding light on ineffective grantees so they can be precluded from receiving additional grants in the future.

When grants are not closed on time, the problems associated with each of the above proliferate:

- Funding is either unused or, worse, continues to be spent by the grantee when it otherwise could be redirected to current priorities or reducing the over \$10 trillion federal debt;
- Illegal or inappropriate spending is not caught, and thus, opportunities are missed to recuperate those funds from the grantee; or
- Grantees that are ineffective or administratively delinquent are not identified and future grants are again awarded to these failing grantees, jeopardizing even more taxpayer money.

DEPARTMENT OF JUSTICE DELINQUENCY

Given these concerns, any delinquency on the part of an agency in closing out grants in a proper and timely manner exposes taxpayers to millions of dollars in waste, fraud and abuse. Unfortunately, the Office of the Inspector General has found that the Department of Justice is grossly negligent in its grant close-out process.

For the past six years, the IG has consistently identified grant management as one of DOJ's top 10 management and performance challenges. Over 375 audits by the IG have resulted in significant findings associated with serious money lost to waste, fraud or abuse. For example, in a recent audit of several DOJ grant programs (for Indian tribes), the IG found:

- 80% of the expired grants were still not closed;
- 79% of closed grants were not closed in a timely manner (within six months of the grant's end date);
- Grantees were allowed to access funds more than 90 days after the grant end date (in violation of DOJ regulations); and
- Unused grant funds for expired grants had not been either returned to the Treasury or transferred to other DOJ programs.

²⁹⁷ The Department of Justice's Grant Closeout Process. U.S. Department of Justice Office of the Inspector General Audit Division. Audit Report 07-05, December 2006, <http://www.usdoj.gov/oig/reports/plus/a0705/final.pdf>. All information in this section was obtained from this report.

This problem is hardly limited to tribal grants. A July 1999 audit found that the Community Oriented Policing Services grant program failed to redirect unspent funds for more than a fourth (127 of 500) of its expired grants totaling over \$15 million. That amount of money is equal to an entire year of the budget for the Residential Substance Abuse Treatment program, which helps rehabilitate inmates with substance abuse addictions.

OFFICE OF THE INSPECTOR GENERAL FINDS BILLIONS OF DOLLARS IN IMPROPER GRANTS

The Inspector General conducted a comprehensive study of all expired DOJ grants from October 1997 to December 2005. The findings were shocking:

- Of almost 61,000 expired grants worth \$25 billion, 16,736 (nearly a third), worth \$7.4 billion, were still not closed.
- Only 13% had been closed on time (within six months of the grant end date);
- Of the total expired grants, 12,505 were well past the close-out date (6 months after the grant end date) and were yet to be closed;
- 41% of all expired grants did not comply with financial, programmatic reporting requirements and local matching funding requirements;
- Despite this, non-compliant grantees were awarded 129 additional grants totaling \$106 million during their period of non-compliance — \$106 million that should never have been awarded;
- Grantees were allowed to access funds totaling \$554 million after the 90-day “liquidation” period, a clear violation of regulations;
- \$172 million in unused funds from grants held open improperly past the end date had not been redirected to better use, in violation of regulations;
- A small sampling of just 66 grants held open past the end date found that improper draw-downs also included unallowable or unsupported spending running into the millions of dollars;
- On average, expired COPS grants were not closed out for 3.5 years, Office of Justice Programs (OJP) grants for 2.5 years and Office of Violence Against Women (OVW) for more than a year and half. During those periods, grant funds could continue to be drawn down without any accountability for how the funds were used. Funds that could have gone to higher priorities or to reduce the deficit, instead were sitting idle or being drawn down illegally for expired activities; and
- Although federal regulations require funds to be liquidated 90 days after a grant’s end date, the IG found that it was a common practice for COPS, OJP and OVW federal personnel to contact grantees and instruct them to access any remaining funds even though the 90-day liquidation period had passed.

POTENTIAL SAVINGS

Of the 2,205 expired grants in the COPS program, the IG found \$89 million in unspent funds sitting in accounts. In addition, the 857 expired OJP grants had a larger per-grant, unspent amount, totaling over \$61 million. Given that federal staff, in violation of regulations, are calling grantees and advising them to draw down these funds right before the grants are closed out (even though the funds should no longer be available), these are significant financial losses that could otherwise have been recovered for deficit reduction or to pay for other DOJ programs. According to the IG, 87% of the Department's grants are not closed out on time, within six months of the grant end date. During that time, unspent funds will be lost to improper spending or will simply sit idle, when they should be put to better use elsewhere or returned to taxpayers.

If these problems were remedied across the Department and not just at OJP, hundreds of millions of dollars could be saved each year.

RECOMMENDATIONS

- After this IG report was published, OJP eventually implemented a system to automatically freeze grantee access to grant accounts once the 90-day liquidation period (90 days after the grant end-date) has passed. Those funds are then redirected to other programs or the Treasury. This practice should be implemented across the Department to other grant-making agencies and offices.
- Prohibit new grants from being awarded to any organization found to have violated grant regulations — either by accessing funds after the liquidation period, failing to provide required reports necessary for grant close-out, or for failing to repay any inappropriate costs identified as unsupported or disallowed.
- Establish a threshold for the maximum number of grants per grant officer at the Department that are allowed to be backlogged (expired past the liquidation period, but not closed), and establish disciplinary and reward measures for grant-monitoring personnel that would affect performance evaluations, promotions, and salary increases.
- Either replace employees in violation, or establish a restitution program whereby grant officers must pay restitution to the Department via payroll withholdings, if they are found to have provided illegal advice to grantees regarding draw-downs past the liquidation period. This restitution should be in the amount of a percentage of the funds lost to the taxpayers up to a certain cap.

DOJ BANKS BILLIONS OF UNSPENT DOLLARS EVERY YEAR, BUT CONGRESS KEEPS APPROPRIATING MORE

Every year Congress appropriates more than \$20 billion for the Department of Justice (DOJ) to carry out its mission, and every year the Department ends the year with billions of unspent dollars. But instead of returning this unneeded and unspent money to the taxpayers, DOJ rolls it over year to year, essentially maintaining a billion dollar bank account that it can dip into for projects for which the money was not originally intended.

These unspent and uncommitted funds are known as “unobligated balances.” Unobligated balances are funds that have not yet been committed by contract or other legally binding action by the government. Unobligated balances of budget authority (appropriations, contract authority, authority to borrow, and spending authority from offsetting collections) may be carried forward from one year to the next only when authority to incur new obligations in a succeeding period is specifically provided in law.

By contrast, “obligated balances” are the amounts of obligations already incurred (for example, contracts signed) for which payment has not yet been made but will be required, i.e. undelivered orders and accounts payable. Amounts that are obligated are carried as obligated balances until the obligations are paid or the authority is canceled.

“Unexpended balances” of budget authority are the sum of obligated and unobligated balances.

Typically, appropriations are made available for obligation for only one year and any unobligated amounts expire at the end of that fiscal year. However, the obligated, but not yet paid, portions of the expired annual appropriations are normally carried forward for five years during which the balances are not available for new obligations but are available to pay old bills. After the five expired years, the balances are permanently canceled.

For multi-year accounts, appropriations are made available for more than one fiscal year. When the budget authority of multi-year funds expires the balances are treated the same as the balances of annual accounts. The obligated, but not yet paid, portions are carried forward for five fiscal years, after which the balances are permanently canceled.²⁹⁸ When this occurs the funds are returned to the Treasury and not spent.



DOJ banks billions of taxpayer dollars that will not be spent on their original purposes nor returned to the taxpayers, but can be dipped into to pay for other Department projects and priorities.

²⁹⁸“Balances of Budget Authority; Budget for Fiscal Year 2008,” Office of Management and Budget, <http://www.whitehouse.gov/omb/budget/fy2008/pdf/balances.pdf>

While the expired unobligated funds of nearly all federal departments and agencies are canceled, DOJ has a special legal waiver that allows the Department of Justice to bank these funds indefinitely.

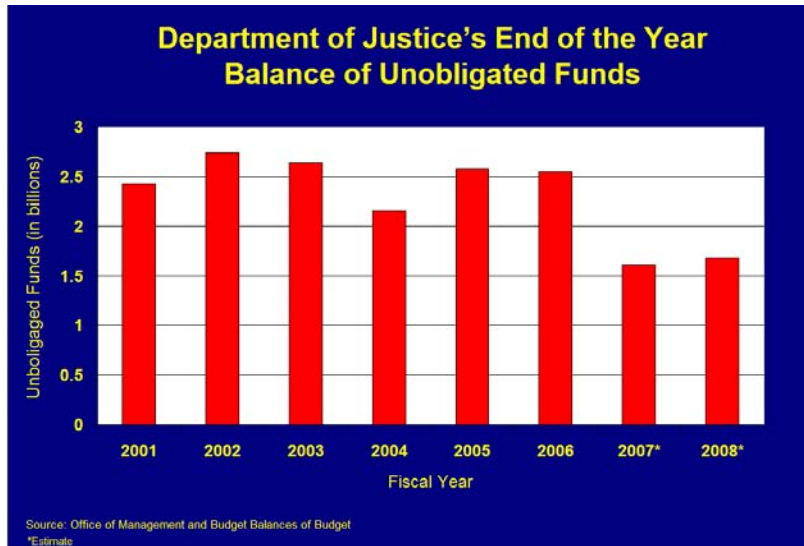
“In fiscal year 1992 the Congress gave the Department of Justice the authority to recapture expired unobligated balances prior to their permanent Treasury cancelation,” according to Lee J. Lofthus, Deputy Assistant Attorney General and Controller. In testimony before the Senate Subcommittee on Federal Financial Management, Lofthus explained “Public Law 102-140 allows us to transfer expired unobligated balances to the Department’s working capital fund when we are sure that all of the original obligations are covered and the remaining balances are not required for adjustments or outlay. These transfers are made to a specific working capital fund account that we call the unobligated balance transfer account, known by its initials, UBT. The working capital fund is a no-year fund, so after a component’s unobligated balances are transferred to the UBT account, that funding remains available until expended.” Lofthus noted that “since 1992, we have transferred approximately \$1.8 billion in funding to the Department’s working capital fund to be reused for various priority projects. Once the funds are deposited in the UBT account, the funding is used for purposes approved by the Attorney General and OMB and with Congressional notification.”²⁹⁹

Over the past six years for which final data is available, the Department of Justice has consistently ended each fiscal year with more than \$2.1 billion in unobligated funds. The Office of Management and Budget estimates that DOJ ended both FY 2007 and 2008 with more than \$1.6 billion.

During this same period, DOJ’s total budget authority increased from \$20.4 billion in FY 2001 to \$24.2 billion in FY 2008.

Despite billions of dollars going unspent, the Department continues to request and Congress continues to appropriate budget increases. Taxpayers rightly should question why Congress would increase spending by billions of dollars for a Department that ends each year with billions of unspent dollars that remain available indefinitely for future expenditures.

²⁹⁹Testimony of Lee J. Lofthus, Deputy Assistant Attorney General and Controller, U.S. Department of Justice, before the Senate Subcommittee on Federal Financial Management, Government Information, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, May 18, 2006.



Department of Justice's End of the Year Balance of Unobligated Funds
Fiscal Years 2001- 2008

Fiscal Year	Unobligated Amount
2001	\$2,427,000,000
2002	\$2,742,000,000
2003	\$2,638,000,000
2004	\$2,152,000,000
2005	\$2,579,000,000
2006	\$2,548,000,000
2007*	\$1,611,000,000
2008*	\$1,678,000,000

*Estimate

In his testimony, Lofthus stressed “that the Department of Justice highly values the authorities we have been given to effectively manage our resources including the authority to transfer expired unobligated balances into our working capital fund. This flexibility provides a strong incentive for prudent financial management and ensures that funds appropriated to the Department of Justice remain accessible for high priority needs.”³⁰⁰

This certainly may be the case and perhaps without the pressure to rush to spend funds before they are canceled, DOJ may, in fact, make more prudent spending decisions with unobligated funds. This has not been studied and warrants examination for potential cost savings across the federal government.

As long as DOJ is banking billions of dollars from year to year that the Department has some discretion to spend on its priorities as they arise, however, Congress should more carefully

³⁰⁰Testimony of Lee J. Lofthus, Deputy Assistant Attorney General and Controller, U.S. Department of Justice, before the Senate Subcommittee on Federal Financial Management, Government Information, and International Security Subcommittee of the Committee on Homeland Security and Governmental Affairs, May 18, 2006.

review how much it is appropriating for DOJ programs. If a particular initiative or office does not need or spend as much as Congress has appropriated, then Congress should consider appropriating less for that particular office and the Department overall.

At the same time, Congress should devise a government-wide incentive system that rewards agencies that practice fiscal responsibility, including those that do not spend the full amount of their congressionally appropriated funds.

With the federal government operating with annual spending deficits exceeding \$500 billion, however, Congress should not add to this debt by borrowing billions of dollars for DOJ that are not needed and as a result go unspent.

RECOMMENDATIONS:

- DOJ accounts with large carryover balances deserve scrutiny. Congress should conduct periodic oversight of unobligated funds to determine the appropriate amount that is actually needed to operate agencies and programs at peak efficiency rather than providing automatic spending increases every year.
- DOJ's authority to roll over unlimited amounts of unobligated funds indefinitely should be reformed in a balanced manner that continues to encourage the Department to spend less, but also recognizes that these funds belong to the taxpayers. Allowing the Department to roll over 50% of the unobligated balances and canceling the other half of the amount and returning those funds to the Treasury would accomplish this goal.
- An independent examination comparing the impact on department spending by DOJ, which has unique roll over authority, and other departments where unobligated funds are eventually canceled should be conducted to determine if more prudent spending decisions are made when agencies are not faced with "use it or lose it" spending deadlines.

CONCLUSION

The American public recognizes the Department of Justice as the law enforcement arm of the executive branch, tasked with upholding the rule of law, protecting Americans from foreign and domestic threats, and bringing justice and order to our society.

Unfortunately, the agency cannot bring order to its own fiscal situation, as it is replete with waste, duplication and mismanagement of taxpayer funds and federal resources. Every year hundreds of DOJ employees do not even bother to show up to work. The agency has spent over \$311 million on conferences in just seven years, sending 26,164 employees to more than 2,000 conferences in 2006 alone. Many of DOJ's grant programs are ineffective and duplicative, poorly managed, and fund low-priority activities and items such as rafting trips, bowling excursions, and skateboarding parks. Meanwhile, the ATF has demonstrated an inability to keep track of its own guns, and often is not in compliance with the very record-keeping laws it requires of U.S. citizens. In addition, the agency continues to associate with and even fund organizations linked to terrorism — such as with an organization currently being investigated by Justice for its affiliation with terrorist organizations. Even more, the FBI is tasked with protecting the nation from terrorist attacks, yet responds to hundreds of requests every year to help Hollywood movie makers and writers create believable crime scenes in violent movies, television shows, and books. These inefficiencies not only cost taxpayers millions of dollars, but siphon funding away from the Department's efforts to protect the country from terrorist threats at home and abroad.

Congress has contributed to the lack of management and prolific waste at DOJ by creating and funding duplicative programs, earmarking billions of dollars for questionable local projects, and ignoring its responsibility to conduct meaningful and effective oversight of the agency.

The country currently faces over a \$10 trillion debt that continues to grow. Permitting such extensive abuse of taxpayer funding at the Department of Justice is irresponsible and only magnifies the current financial disaster we are passing on to the next generation. Given DOJ's crucial mission, the consequences of Justice's negligence reaches even beyond fiscal concerns and the budgetary impact of such waste. Each of the millions of dollars thrown away every year represent one less dollar being used to fight crime, combat terrorism, prosecute fraud, and ensure the safety of each and every American.

“Justice Denied” is not an effort to discredit the work that the Department of Justice and those who work there have carried out and will continue to perform in the future. The report will hopefully be seen for what it is: an effort to shine some light on programmatic and funding decisions that may be holding the agency back from fulfilling its central mission of protected our country.