MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 1, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Testimony of William J. Olivanti, Special Agent in Charge, DEA Chicago Field Office

The Department of Justice has submitted the above-referenced testimony, scheduled to be delivered on March 4 before the Senate Permanent Subcommittee on Investigations. The testimony reviews examples of involvement of the Chicago Syndicate in narcotics trafficking. Olivanti states that the Syndicate is typically not directly involved in narcotics sales, but issues "juice loans" to facilitate large-scale transactions and assesses an "area tax" for the right to deal narcotics in given areas. The testimony also discusses six specific cases of Syndicate involvement. I see no legal objection.

ID # _____ CU

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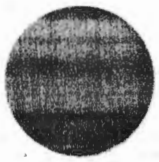

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Name of Correspondent: William J. Olivarti

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Subject: Statement on Organized Crime

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
W Holland	ORIGINATOR	83/03/01			
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CWAT 18	A	83/03/01		S	83/03/04
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5/81

DRAFT

STATEMENT OF

WILLIAM J. OLIVANTI, SPECIAL AGENT IN CHARGE
CHICAGO FIELD DIVISION

DRUG ENFORCFMENT ADMINISTRATION
U.S. DEPARTMENT OF JUSTICE

ON

ORGANIZED CRIME

FOR THE RECORD OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
UNITED STATES SENATE

WILLIAM V. ROTH, JR., CHAIRMAN
MARCH 4, 1983

Chairman Roth and members of the Subcommittee:

I am pleased to submit for the record an overview of Chicago traditional organized crime as it relates to narcotics trafficking.

For at least the past two decades, certain elements of Organized Crime in Chicago have been involved in the trafficking and distribution of narcotics. However, Organized Crime in its popularly conceived image did not control narcotics trafficking, which was, and still is, in the hands of various ethnic groups normally identified with the type of drugs trafficked. For example, the trafficking of brown heroin has been controlled by Mexican violators and white heroin by various ethnic groups.

Dating back to the 1960's, Syndicate involvement was primarily in the area of importation of white heroin through well-established distribution networks between the United States and Europe, principally Italy and France.

From this period to the present, the actual sale of narcotics, again primarily white heroin, involving the Syndicate was accomplished by fringe associates, but was not a policy of the upper echelon Syndicate members. It would be fair to say

that in some cases tacit approval was given for the sale of narcotics by upper echelon members, but no apparent concerted effort was made by the Syndicate to either control narcotics sales or to involve itself in the purchase of large quantities of narcotics for sale and distribution.

Recent investigations have revealed that Syndicate figures are involved in the financing of narcotics through the issuing of extortionate loans, commonly referred to as "juice loans." Another ploy used by the Syndicate to realize profits from narcotics sales is the "area tax," through which upper echelon Syndicate members receive payment for the right to sell narcotics in a specific area; however, this is an indirect connection to narcotics sales, affecting only those fringe elements previously discussed. In effect, the sale of narcotics by certain individuals under this system would be financially beneficial to the Syndicate in the same way as other illegal activities like gambling, prostitution, and extortionate credit.

The following overview outlines Organized Crime involvement in drug trafficking and highlights investigations involving Organized Crime figures. In addition, the financing of drug purchases and Syndicate involvement in the area tax is addressed.

NARCOTICS AND EXTORTIONATE CREDIT LOANS (JUICE)

Commencing in August, 1980, DEA initiated an extensive probe to determine Organized Crime's (Chicago Syndicate) involvement in the financing of narcotics through extortionate credit loans. This was initiated through an undercover probe. Since that time,

selected approaches have been made, and in each instance, the facts as noted below are still considered current and represent the Chicago Syndicate's policy toward furnishing loans for narcotics.

In every instance, the individual contacted showed no hesitation in discussing a "juice" loan even when the word narcotics or various colloquial expressions such as "dope," stuff," etc. were used in reply to "what's the loan for?" It was made clear that there would be "extra points" added to the loan since it was to be used for narcotics. As in a loan through a bank, the borrower was required to furnish a home address and a list of his/her closest relative such as a mother or father so as often repeated, "somebody we can contact in case there's problems."

It was found that if the money was to be used to establish or refinance a narcotic organization then the understanding was the same as any extortionate credit loan. Payment is made on the interest only and usually on a weekly basis. The Syndicate makes the decision as to when the principal can be paid off. On the other hand, if it is a "one time loan," for example, a load of narcotics, then the loan can be paid off at once, usually in a week's time.

Summary

Contacts showed there was no hesitation in discussing a loan for narcotics. In fact, in one instance when a mid-level Chicago Syndicate figure was approached, he demonstrated current knowledge of cocaine prices in Chicago in comparison to Florida.

He further advised the Undercover Agent that a loan could be obtained for $100,000 and that the money would come out of "Cicero."

Information continues to be received, practically on a routine basis, from Cooperating Individuals and convicted narcotic traffickers that all narcotic organizations are expected to pay an "area tax" which eventually goes to the individual street bosses. An example of this occurred when the late Butch PETROCELLI approached Frank PEDOTE and advised him that the word on the street was that he (PEDOTE) was big in narcotics. PEDOTE took this to mean that he would be expected to pay a "tax" if he wanted to keep selling heroin in Chicago.

REPRESENTATIVE CASES

Traditional Organized Crime and specifically the Chicago Syndicate were quick to realize the profit potential in heroin and were in an excellent position to obtain a reliable supply through their New York City connections and overseas in France and Italy. Since that time, the Syndicate has been actively involved in selected instances in the distribution by sale, financing, or approval of narcotics transactions to realize significant profits. Therefore, it was only natural that as the trafficking patterns changed, the Syndicate would move their expertise and connections to another area which currently is represented by another high profit controlled substance - cocaine. Representative of the above are as follows:

AMERICO DePIETTO

Subject was arrested and convicted in 1964 for the sale of narcotics. DePIETTO received a 20 year sentence and since his release has become a close associate of Marshal Caifano. The latter, a documented member of the Chicago Syndicate, was convicted in Florida for receiving stolen securities and is presently incarcerated.

MARY GUIDO and JOSEPH SKEVA

As noted under "OPERATION FLANKER," Louis Guido (husband of Mary Guido) was convicted and received a 20 year sentence for the sale of heroin. While in prison, he approached a DEA cooperating individual and proposed the purchase of white heroin from the cooperating individual by his wife Mary Guido and his brother-in-law John Skeva. Both subsequently advanced $32,500 to the source following which they were arrested and convicted for conspiracy.

NICK D'ANDREA

Along with demonstrating clearly the Syndicate's involvement in drug trafficking, the D'Andrea case is of singular interest because of the ususual violence connected with it. The Chicago Syndicate has generally handled internal conflict quietly to preclude enforcement and media attention; however, in this instance, the power struggle on Chicago's south side culminated in a number of murders including that of Nick D'Andrea.

The investigation began in 1980 when a DEA undercover agent met with Nick D'Andrea. It was subsequently determined that he was heavily involved in drug trafficking, primarily cocaine trafficking. His organization distributed cocaine to dealers in

the south Chicago suburbs and Northern Indiana. Through undercover negotiations, it was determined that the D'Andrea Organization was distributing multi-kilo quantities of cocaine which were obtained in Florida.

In September, 1981, Nick D'Andrea's body was discovered in the trunk of his car. A month later, his brother Mario was shot and killed by a DEA undercover agent during a cocaine transaction when D'Andrea attempted to shoot the agent.

OPERATION FLANKER

This operation was initiated in 1970 to determine Organized Crime's involvement in the distribution of narcotics. As a result of this probe, substantive cases were made and indictments were subsequently issued charging the following Organized Crime members or associates with the sale of heroin, all of whom were convicted and received substantial sentences:

CHRIS CARDI	ALEX MICELLI
JOSEPH CADUTO	LOUIS GUIDO
FRED CADUTO	FRANKLIN CARIOSCIA
JOSEPHINE CADUTO	MICHAEL CARIOSCIA
VIRGIL CIMMINO	

To further document Organized Crime's involvement in narcotics was the admission by Chris Cardi, who was a fully documented Organized Crime figure, that the Chicago Syndicate was in fact involved in narcotics. It should be noted that Cardi was the victim of a gangland killing almost as soon as he was released from prison.

ERNEST ROCCO INFELICE et al

Infelice is a member of the Chicago Syndicate and was convicted on October 23, 1973 for the sale of heroin and conspiracy to violate the Federal Narcotic Laws. Infelice along with his co-defendants, Mario and Chester Garelli, were employed at McCORMICK PLACE. During the development of this case, it was necessary for the DEA coopérating individual to receive clearance before a purchase of heroin could be made from the Garelli's. This approval was given by Infelice in a DEA recorded conversation which becamse a substantial portion of the case presented against Infelice.

This case is of special importance as it represents the change from white heroin associated with FRENCH CONNECTION sources to brown heroin controlled by the HERRERA's. In 1982, DEA Chicago has noted a revitalization of white heroin connection evidenced by investigations currently not of public record.

SAM SARCINELLI

Organized Crime figure Sam Sarcinelli was convicted on December 10, 1982 and sentenced in Florida to 8 years in prison and 3 years special parole on count one, and 8 years in prison and 3 months special parole on count two of an indictment charging Sarcinelli with Possession and Conspiracy to distribute narcotics. Sarcinelli headed a large-scale narcotic organization capable of distributing multi-kilogram quantities of cocaine per month.

I thank you for the opportunity to provide the Drug Enforcement Administration's information regarding the subject of your hearings, and for the continued interest and support of the Subcommittee in our efforts against organized crime and illicit narcotics trafficking.

THE WHITE HOUSE

WASHINGTON

March 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Testimony of William E. Hall on the U.S. Marshals Service

The Department of Justice has submitted the above-referenced testimony, to be delivered before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. The testimony reviews the work of the Marshals Service, discussing increased professionalization through greater training, provision of court security, the "Operation FIST" successes in apprehending fugitives, prisoner transportation and detention during trial, benefits from Public Law 97-462 (relieving Marshals Service of many civil process duties), and improvements in the witness security program. I see no legal objections to the proposed testimony.

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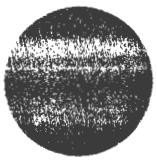

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Name of Correspondent: William E. Hall

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Subject: Statement re: initiatives by U.S. Marshals Service

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UNITED STATES MARSHALS SERVICE

DEPARTMENT OF JUSTICE

STATEMENT OF THE DIRECTOR

WILLIAM E. HALL

BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON

COURTS, CIVIL LIBERTIES AND THE ADMINISTRATION OF JUSTICE

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before the subcommittee today and share with you some of the initiatives undertaken by the U.S. Marshals Service since I last appeared before you. I welcome this opportunity to bring you up to date on the programs of the Service.

GENERAL STATEMENT

A major initiative was undertaken by the Service during 1982 to recompute the district staffing requirements based on the Work Measurement System developed in 1980 by a joint task force of the Department of Justice and the U.S. Marshals Service. These staffing requirements reflect the operational and administrative workload within each of the 94 judicial districts and focus on the major programs of the Service.

The district personnel allocations which result from this effort reflect the impact of the authorized personnel ceiling of the Service for 1983. Overall, the operational personnel allocations total 55% of the calculated staffing requirement. The number of personnel available for allocation to the districts is of extreme importance as the 94 United States Marshals and their staffs are collectively responsible for accomplishing the primary missions of the Service. Although at present we are operating with less than the optimum number of personnel, the U.S. Marshals Service expects to continue its effective operations to the greatest extent possible and to expand upon the significant program achievements to date.

A long range ADP plan has been developed to provide the Service with the efficiency of computer technology. This fiscal year eight pilot project sites will be established for programs which will aid us in district accounting and local prisoner population management.

TRAINING

In our effort to continue the professionalization of the Service, approximately 21% of all personnel participated in some type of organized training conducted by the Service. A basic training school for 24 Enforcement Specialists was conducted in January 1983 at Glynco, Georgia. This four-week class focused on

the skills required to effectively operate an ongoing fugitive apprehension program at the district level. Additional regional training seminars are scheduled for 1983, resources permitting.

In further efforts to improve program missions, the Marshals Service has increased training for the Witness Security Inspectors. During fiscal year 1982 a total of 82 class participants received Basic Inspector and Personal Security training as compared to 59 class participants receiving the specialized training in 1981.

Training is scheduled during 1983 to increase Service expertise in such areas as Jail Contracting and Inspections; Security Countermeasures in Judicial Facilities; Judicial Conferences and Group Security; Sequestered Juries; Security at High Risk or Sensitive Trials; Hostage Negotiations; Counter-terrorist Tactics; and Special Weaponry. The Protective Services School which proved so successful during 1982 will be continued in 1983 to train Service personnel in advanced personal security and protection skills.

COURT SECURITY

The primary mission of the U.S. Marshals Service has always been the security of the Federal judiciary. To successfully perform this mission, security policies, equipment and training are continually being updated.

Enhancement of the security support program through the use of state-of-the-art equipment allowed the Service to successfully provide security for over 12,000 trials in 1982.

Included among these trials were such noteworthy cases as the Edwin Wilson conspiracy trials in Eastern Virginia and Southern Texas; the Croatian Terrorist trials in Southern New York, and the highly volatile Outlaw Motorcycle Gang narcotics/murder cases in Florida. When high media contact or high profile trials such as these occur, Service personnel not only provide court security and intelligence information, but also arrange for the personal protection of threatened individuals outside of the judicial proceedings.

During 1982 personal protection was provided on two separate occasions to Supreme Court Justice Sandra Day O'Connor; the Chief Justice was escorted during several national trips; and extensive twenty-four hour protective details were conducted on numerous Federal judges, prosecutors and trial participants.

The Service is currently developing its new contract guard program to provide better facility security for Federal court buildings, along with implementing the recommendations of the Attorney General's Joint Task Force on Court Security. These efforts will greatly assist in providing increased security support to the Federal judiciary.

EXECUTION OF WARRANTS

The Service continued to make an outstanding contribution to the Administration's law enforcement effort by placing special emphasis on the investigation and apprehension of those fugitives with histories of violence, organized crime connections, or narcotics associations. In 1982 the Service cleared 55 percent of its primary fugitive cases, a total of 10,379. Some of the major arrests in 1982 included international fugitive Edwin P. Wilson, Kenneth Lloyd Pendleton, William Joseph Arico, and John Patrick O'Shea.

In direct support of the Administration's drive against violent crime, the Service developed the Fugitive Investigative Strike Team concept, also referred to as FIST. This effort focuses on major crime areas to apprehend a large number of primary fugitives in a short period of time at a minimum of cost. The success of the initial effort in Miami in October 1981 prompted FIST Operations in Los Angeles, New York, and Washington, D.C. in 1982. These four operations have resulted in 1,095 physical apprehensions of fugitives who had previous arrests totaling 6,753. Four hundred and seventy-six of these fugitives were classified as armed and dangerous. The average cost per fugitive apprehension was $973.57. Additionally, the District of Colorado concluded in August 1982 a special ten-week fugitive investigation operation conducted jointly with local law enforcement agencies. It resulted in the arrest of 92 fugitives

sought in the Denver area. Operations such as those mentioned illustrate the impact in reducing the criminal population at large. More FIST operations are in the planning stage for 1983.

PRISONER TRANSPORTATION

The Service has continued to make progress in the transportation of Federal prisoners. The number of prisoners requiring interdistrict transportation has increased 53% in the last three years, however, through improved management, the average amount of Deputy U.S. Marshal time per prisoner has declined. This has amounted to a savings of more than $2 million over what it might have cost were improved scheduling and transportation methods not implemented. Briefly, the savings have been accomplished by the centralization of prisoner movement controls and the establishment of a strong network of fixed air routes with leased aircraft and low cost ground transportation. This has substantially lessened the use of more expensive commercial air flights. None of this would be possible without the cooperation of the Federal judiciary, the U.S. Attorneys, and other Federal bureaus in providing sufficient advance notice of required movements so that prisoners can be moved at the least cost to the government.

SUPPORT OF U.S. PRISONERS

The Marshals Service contract detention program is becoming increasingly important in light of the current crisis situation in the nations jails.

There has been a rapid increase in the costs for housing Federal prisoners in local contract facilities, and a decrease in the number of contracts and bed spaces available. The daily jail rate has increased from an average of $21.70 per day in 1981 to approximately $31.68 per day in 1983. Of our 733 contract facilities utilized in 1982, 658 facilities or 99% of all facilities used, raised their daily costs for 1983.

The Cooperative Agreement Program and the Federal Excess Property Program have allowed us to assist the local detention facilities and, at the same time, guarantee bed space for Federal prisoners. We would endorse any expansion of these programs as we expect both the lack of detention space and the need to house growing numbers of Federal prisoners to increase.

CIVIL PROCESS

On January 12 of this year, President Reagan signed Public Law 97-462, implementing amendments to Rule 4 of the Federal Rules of Civil Procedure which significantly reduce Marshals Service

responsibility for service of civil process. The amendments, which went into effect just last week, relieve the Marshals Service of its obligation to serve summonses and complaints, in any manner, on behalf of private parties, with the exception of seamen, paupers, and upon specific court order in a particular case. Service of private civil summonses and complaints is now, primarily, the responsibility of the plaintiff or plaintiff's attorney. The amendments also provide that Federal civil process, including process served by the Marshals Service, may be served by first-class mail, except when personal service is court ordered. These long-awaited amendments may result in an increase in administrative workload but may free up critically needed operational resources for other missions of the Service.

In accordance with Title 28 of the U.S. Code, Section 1921, the Marshals Service will continue to charge a $3.00 fee to those private litigants who are eligible to request that the Service issue a summons or complaint. Originally, the proposed amendments called for the Marshals Service to retain the process fees collected rather than turn them over to the General Fund of the Treasury. This provision, however, was not included in the final bill and is a consideration the Marshals Service would like to pursue in the future.

WITNESS SECURITY

Regarding the Witness Security Program, it is notable that the U.S. Marshals Service has, again, met all requirements for the safe transportation and production of protected witnesses for all required court appearances and related activities without incident of bodily injury to any of the witnesses. During 1982 the Service produced and protected witnesses for numerous high profile trials such as several Hells Angels murder and drug cases, Iranian Terrorists, the Nuestra Familia prison gang murders, and the Judge Woods murder trial. Witness Security Inspectors recently provided round-the-clock protective services for John Hinckley until his commitment, and again after his most recent suicide attempt.

The Service received 324 new witnesses in the program for fiscal year 1982 compared with 282 in 1981 -- a 15% increase. A total of 1,047 principals were funded and/or serviced during 1982 as compared with a total of 1,052 for 1981. The number of principal participants terminated or released from the program was 450 for 1982 compared to 288 for 1981 -- a 56% increase. Significantly, as of the end of fiscal year 1982, a total of 4,106 principal participants have been enrolled in the program since its inception. The Marshals Service expended a total of 446,000 hours during fiscal year 1982 in connection with program activities, an increase of 9% over 1981.

Other program accomplishments include the automation of subsistence funding and accounting and other procedural and systems improvements.

It should be recognized that approximately 97% of the principal witnesses in the program have criminal records and that the recidivism rate for those relocated individuals is between 15 and 17%. This compares favorably with an estimated recidivism rate of 50% for convicted criminals as a whole. This comparison is further indicative that the overwhelming majority of relocated witnesses have adjusted well.

The U.S. Marshals Service strongly supports the contention that more strenuous entry standards are needed in the Protected Witness Program and that victims of Protected Witnesses should be given some consideration for compensation.

THE WHITE HOUSE

WASHINGTON

March 7, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Testimony of Assistant Attorney General McGrath on Civil Division Authorization

The Department of Justice has submitted the above-referenced proposed testimony, scheduled to be delivered March 9 before the Subcommittee on Administrative Law and Government Relations of the House Judiciary Committee. The testimony asks for a $7 million increase, primarily to provide increased automated litigation support. The testimony also describes the continuing need for reform of the Federal Tort Claims Act to address the escalating number of suits against federal employees, the debt collection activities of the Civil Division, and its new responsibilities for most immigration cases (transferred from the Criminal Division). I see no legal objection.

Roberts ID # CU

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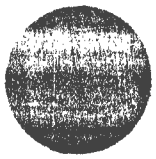

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Subject: Statement concerning Civil Division Authorization

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STATEMENT

OF

J. PAUL McGRATH
ASSISTANT ATTORNEY GENERAL
CIVIL DIVISION

BEFORE

THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS
HOUSE OF REPRESENTATIVES

CONCERNING

CIVIL DIVISION AUTHORIZATION

ON

MARCH 9, 1983

DEPARTMENT OF JUSTICE
CIVIL DIVISION

STATEMENT OF ASSISTANT ATTORNEY GENERAL
J. PAUL MCGRATH
BEFORE THE HOUSE SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS, COMMITTEE ON THE JUDICIARY

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to be here this morning to discuss the work of the Civil Division and our 1984 budget request. For 1984, the Division is seeking a budget of $44,815,000 and 702 permanent positions. This request includes $2,508,000 and 53 permanent positions which are being transferred to the Civil Division from other parts of the Justice Department to implement the reorganization plan which was submitted to the Subcommittee earlier this year. You will recall that the reorganization involved the transfer of responsibility for consumer litigation from the Antitrust Division to the Civil Division and the transfer of responsibility for civil immigration litigation from the Criminal Division to the Civil Division. In addition to formalizing the transfer of budget authority for these two areas of litigation, our 1984 budget seeks a program increase of $7,067,000 and 9 permanent positions.

As the Government's lawyer, the Civil Division plays a pivotal role in protecting the financial status of the Federal Government, the President's domestic and foreign policies and the statutory and regulatory integrity of the numerous entitlement and other Federal programs established by the Congress.

Civil Division attorneys are primarily litigators appearing before the courts on behalf of most government programs with the exception of those covered by our Lands, Antitrust and Tax Division. We litigate cases involving tort claims, government contract and other commercial claims, and the interpetation of statutes and regulations in specific federal programs, in federal district courts, the Courts of Appeals and specialized courts such as the Court of International Trade and the Claims Court. I personally have handled litigation while in my present job and am familar with the kinds of pressures faced by our staff attorneys.

Over the past two years the caseload of the Civil Division increased by almost 30 percent and if present trends continue it will increase by an equal percentage over the next two years. In actual numbers this represents an increase in pending cases from slightly more than 23,000 at the beginning of fiscal year 1981 to almost 38,000 by the end of 1984. The cases pending at the end of the 1982 involved claims of $86.8 billion and we expect this amount to increase to $160 billion by 1984. These dollar figures do not include the potential increase of billions of dollars in the cost of Federal entitlement programs which are at issue in many of the cases we are now handling.

Despite these huge increases in the volume of cases which we are handling, the Division has been able to sustain a remarkable record of success on behalf of its client agencies. For example, in claims against the Government which were closed during 1982 we were successful in limiting awards to $141 million against

claims of $115 billion or approximately .0012 percent of the amount claimed, Conversely, in our affirmative cases we secured awards of 18.5 percent of the amount we were seeking to recover (awards of $110 million in claims of $594 million). At the same time we secured favorable judgments and settlements in approximately 92 percent of our non-monetary litigation.

Our ability to sustain this level of success while coping with the increasing volume of complex litigation is largely attributable to several management actions which we have taken to improve the productivity of our staff. Our future success will be strongly influenced by our ability to continue and expand upon these initiatives. The funding increase which we are seeking for 1984 is for these purposes.

There are three aspects of our request and I would like to briefly discuss each of them.

The major share of the increase is $6,148,000 for automated litigation support. Increasingly, our success is being influenced by the efficiency with which we use information. Much of the litigation which our lawyers handle involve massive collections of documentary evidence, large numbers of individual claimants and extensive volumes of witness depositions and hearing and trial transcripts. If we are to provide quality legal service to our clients we must be able to organize, master and use all this information in a cost efficient manner. Manual handling is unworkable and would also require a massive increase

in attorney and paralegal personnel. In 1982 we initiated a program to apply computer and other information handling technologies to four of our largest families of cases. This year we are expanding this program to several other families of cases and with the additional funds we are seeking for 1984, we will be able to expand it to cover all of our large document cases. This will include approximately 15 percent of our cases in 230 case families. With these funds we will be able to organize, screen, index, microfilm and computerize the evidentiary documents, depositions and transcripts in all these groups of cases. We will then be able to use all the information to prepare for and effectively litigate these cases.

The second element of our requested program increase is for $769,000 for office automation. Over the past three years we have developed and implemented programs to modernize and automate our word processing, case management, attorney timekeeping and management service activities. Last year we developed and began implementation of a comprehensive plan to merge these separate systems as well as our automated litigation support and both public and private legal research systems into a single integrated system. Our integrated system, which we have named AMICUS, will make all of these systems available to each of our attorneys, paralegals and support personnel through executive and clerical terminals located

at the workstation of each employee. Through this workstation system each employee will be able to access all of the automated systems. The AMICUS system will also include local and long distance communications, information query and retrieval, high speed printing, automatic letter writing and electronic mail. The system has already demonstrated its capability to increase both clerical and attorney productivity and effectiveness in the parts of the Division where it has been installed. The increase which we are seeking for 1984 will enable us to lease the additional equipment necessary to expand the system throughout the Division. I have a brochure which we have developed on the system which I would like to leave with the subcommittee.

The final aspect of this funding increase is $150,000 to enable us to upgrade eight of our existing positions to provide management and oversight of our expanded litigation support and office automation efforts. These eight positions, which will be vacated through attrition, are presently occupied by clerical employees and will be filled by computer specialists, computer programmers and litigation support specialists.

Finally, our budget requests an increase of 9 permanent positions. This increase will permit us to appoint on a permanent basis our mail messengers who for the last three years have held temporary appointments. We are not requesting additional funds for these positions.

I would like now to discuss some of the significant program issues we now face.

First are constitutional torts or the so called Bivens actions. Suits against present and former federal employees for money damages as a result of official governmental conduct continue to be filed at an alarming rate. In these cases the defendant is liable personally for the damages under current law. During fiscal year 1982, the Civil Division, which is responsible for authorizing and effecting representation in the majority of cases, received an average of 60 new cases each month. The total number of pending suits against present or former federal employees is approximately 2,300. During the past three months, the Torts Branch handled an average of 71 cases per month. It is perhaps of equal significance to note that an additional 86 cases were rerouted to other Divisions or within the Department of Justice for appropriate handling. It thus would appear that suits are continuing to increase and there is no indication that this trend will diminish.

Of the approximately 10,000 cases which have been filed since 1970, there have been, to date, 16 adverse judgments against federal officials. The damages assessed range from $1.00 to a total of $1.9 million awarded against the estates of former Senator McClellan and members of his staff. The governmental activities at issue run the gamut from a

Senatorial investigation to personnel matters; from destruction of rusting car bodies in a National Forest to following Department of Agriculture veterinarian program requirements. A number of the adverse judgments have been paid by the federal employee/defendants; the remainder are in various stages of the appellate process.

Bivens suits against federal employees have a direct and adverse effect upon government operations. While this impact is difficult to quantify, the Supreme Court of the United States recently commented in its decision in Harlow and Butterfield v. Fitzgerald:

> At the same time, however, it cannot be disputed seriously that claims frequently run against the innocent as well as the guilty--at a cost not only to the defendant officials, but to the society as a whole. (Footnote omitted.) These social costs include the expenses of litigation, the diversion of official energy from pressing public issues, and the deterrence of able citizens from acceptance of public office. Finally, there is the danger that fear of being sued will "dampen the ardor of all but the most resolute, or the most irresponsible (public officials), in the unflinching exercise of their duties."

It is these "social costs" which have prompted the Administration to seek a legislative solution to the problem. In the 97th Congress, I testified in support of legislation

which would amend the Federal Tort Claims Act to waive sovereign immunity for constitutional violations and make suit under that Act the exclusive remedy for citizens injured by the actions of federal officials. (A copy of the testimony is attached for reference.) The record of the hearings before both House and Senate Subcommittees documents the fact that the present situation is intolerable. In this Congress, similar legislation has already been introduced in the House (H.R. 595) and we are actively working on proposals with the Senate. The goal of all involved in this legislative endeavor is to provide a viable, financially responsible defendant--the United States--so that those plaintiffs who were injured could recover. In addition, suit against the United States would be an exclusive remedy, thereby protecting federal employees from the burdens of litigation and the fear of adverse judgments. The track record to date, only 16 adverse judgments out of literally thousands of suits, demonstrates that the federal employee is <u>not</u> engaged in an untrammeled assault upon the constitutional rights of the citizenry.

With respect to handling the increasing caseload, the bulk of the defense effort is mounted by the United Sates Attorneys in the 96 districts. Since each case involves local circumstances and facts, it would be impossible and impractical for the majority of these cases to be handled out of Washington. At the same time, there is a significant number of cases of national scope and import which require centralized handling. The resources of the Civil Division are already strained to

the limit and there is very little room for the assumption of responsibility for the increasing caseload.

The question of whether there is any possible explanation for the increase in suits against federal officials is an intriguing one indeed. Perhaps the answer more properly lies in the area of sociology rather than jurisprudence. The increase of suits is not restricted to federal officials; rather, it involves all levels of government. For example, in a report for the Administrative Conference of the United States, it was noted that the number of suits against state and local officials in federal court under 42 U.S.C. § 1983 has increased from 261 in 1961 to over 25,000 filed in 1979. Whatever the cause, the effect is detrimental to the operations of government and the public is being disserved by the present situation.

The second area I would like to discuss is our debt collection activities. The Administration and the Attorney General have assigned great importance to the task of collecting debts owed to the United States as a result of defaulted loans, settlements or judgements and other court imposed obligations. The Attorney General has given me a lead role for the Department of Justice on all collection matters.

The passage of the Debt Collection Act has greatly enhanced the ability of all Federal agencies to collect their debts.

The Government now has the power to disclose debt information to consumer reporting agencies. An individual can now receive a negative credit rating as a result of a government debt. In addition, when an agency determines that a Federal employee, or a member of the Armed Forces or Reserves is indebted to the United States the debt can be collected through a salary offset. Other major provisions of the act allow the government to impose interest penalties and to assess charges to cover the costs of processing and handling delinquent claims.

The Debt Collection Act will have some effects on the amount of litigation and the other collections actions which Justice must take. Since the power of the agencies has been increased there is not as great a need to initiate litigation to recoup debts.

With the increase in our debt collection enforcement activities, we are confident the Department will be able to increase significantly the amount it collects. Collections of civil debts and criminal fines by the Department in FY 82 amounted to slightly more than $200 million.

The final area I would like to discuss is the Division's new responsibility for immigration litigation. As you are aware, another of the Administration's high priorities is to bring the immigration problem under control. The realignment of responsibility for handling litigation arising out of the immigration laws is an integral part of these efforts.

Under this realignment the Civil Division has assumed the responsibility for all civil proceedings, including habeas corpus petitions filed by aliens, relating to the validity of detention, exclusion or deportation. All civil actions brought against either the employees of the Immigration Naturalization Service or the Government arising out of employees actions on behalf of the Government; and civil actions resulting from programs undertaken for the purpose of facilitating the detention of excludable or deportable aliens based on their danger to the community have been transferred to the Civil Division.

The Criminal Division has retained exclusive jurisdiction over criminal cases, denaturalization cases concerning persons believed to have been involved in Nazi war crimes, civil forfeiture actions and remission petitions, and certain other civil matters bearing on criminal law enforcement.

The Civil Division's objectives in handling immigration litigation are: to conduct promptly and efficiently the relatively large number of litigated matters ranging from the routine to the moderately complex; and to maintain the capacity to respond with experienced litigators to major litigation.

The Civil Division will maintain a more centralized control over litigation and will personally handle many of the cases which would previously have been delegated to the U.S. Attorneys. Litigation is controlled by attorney

teams each headed by a senior litigating attorney, and including at least one other trial attorney. Each team is given a mixture of routine and complex cases and can handle District Court as well as Appellate matters. This litigation-team approach effectively allows us to respond to not only routine cases but multiple emergencies as they arise without significant disruption of normal duties. It will also permit us to develop a cadre of attorneys with specialized knowledge and skills in the handling of this specific type of litigation.

I would be happy to answer any questions or respond to any comments members of the Subcommittee may have.

U.S. Department of Justice

Washington, D.C. 20530

STATEMENT

OF

J. PAUL McGRATH
ASSISTANT ATTORNEY GENERAL

BEFORE

THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON AGENCY ADMINISTRATION
UNITED STATES SENATE

CONCERNING

S.1775 - FEDERAL TORT CLAIMS ACT

ON

MARCH 31, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am pleased to appear before your Subcommittee in support of S.1775, a Bill which would make the United States the exclusive defendant for all torts committed by federal employees within the scope of their employment and would, for the first time, make the United States liable for constitutional torts. The Bill would provide for the substitution of the United States for defendant employees acting within the scope of their employment in all suits alleging common law or constitutional torts.

With me is John L. Euler, an Assistant Director in the Civil Division which I head at the Department of Justice. Among my duties as Assistant Attorney General of the Civil Division is supervision of the representation and defense of federal employees personally sued in their individual capacities. Mr. Euler and his immediate superior, Torts Branch Director, John J. Farley, III, are immediately responsible for this effort and Mr. Euler is therefore intimately familiar with our day-to-day practice of law this area. Deputy Attorney General Edward C. Schmults has previously testified before you concerning S.1775 and conveyed the Administration's strong support for this initiative. My purpose this morning will be to briefly sum up the case for the Bill and urge its prompt enactment.

Mr. Chairman, at the outset, it seems appropriate to express our appreciation for your leadership in this vital

area of defining the civil law relationship between the government, its public servants and the citizenry. We are further along the path of resolution of this problem than ever before. That is because of the efforts of you and your fine staff. Due to that effort a complete and detailed record has been developed in the course of these hearings and the many written submissions. The problem has been defined; a solution proposed. Proponents and opponents have stated their cases. All of the concerns and questions seem to have been fully discussed. For example, the testimony submitted today by the Office of Personnel Management makes an eloquent and persuasive case for S.1775. We are now at the point where concrete legislative action is appropriate and supported by the record.

To briefly summarize, we understand S.1775 to be responsive to three problems. First, it addresses the large number of suits filed personally against federal employees at every level of the government for doing no more than carrying out the duties which Congress and the President have ordered them to perform.1/ We estimate that there have been 7,500 to 10,000 of such suits since 1971. They are increasing. If an employee suffers an adverse judgment, with very few exceptions, it is he or she who must pay it.2/ It is shocking to think that these individuals have no protection. No other group of employees or professionals lies so exposed to personal catastrophic loss through legal action as federal public servants. I submit that every other identifiable group in our society is protected by some form of indemnity, subrogation,

insurance, or the law of respondeat superior. As a first principle, it is terribly unfair to ask them to bear such a burden. Beyond that, the cost to good government from the combination of chilling effective action, diverting resources and talent, shortening laudible careers, discouraging quality recruitment and requiring endless, non-productive litigation is incalculable. The record before this Subcommittee contains mention of each of these detriments.3/

This leads to the second problem addressed by the legislation. The citizen has no adequate remedy. The United States cannot be sued for a constitutional tort.4/ The modest assets of the public servant are the only available resource. Even then he may not be suable because he may not be subject to the personal jurisdiction of the court or amenable to personal service of process.5/ Of the thousands of cases, there have been very few judgments6/ and very few of those have, in turn, actually been paid. This not only demonstrates that federal public servants have a good record that does not justify a constant threat of personal lawsuits but also shows the futility of a claimant pursuing that route. The only realistic motivation then becomes that of engendering individual fear and personal trauma. This has never been recognized as a proper method of controlling government or as a philosophic basis for tort law. Thus the current system is self defeating for all concerned.

The third problem is the expense, complexity and protracted nature of the cases engendered under the present scheme.

Because the constitutional tort or Bivens case concerns the personal finances of the individual defendants it can only in the rarest of cases be settled. Because multiple defendants are sued in almost seventy-five percent of the cases, conflicts of interest sometimes arise and the Department hires private counsel to represent each group whose factual positions collide.7/ Three million dollars has been spent in that regard since 1976. In addition, because individual liability is at issue, the trauma experienced by individual employees requires a tremendous degree of attorney time devoted to soothing the anxieties of the client and resolving issues of potential conflicts of interest.8/ The decisions that must be made by both clients and we attorneys at the Department of Justice in these cases are often excruciating. These factors must be dealt with despite the fact that most of the lawsuits are wholly without merit and will be eventually disposed of on motion. Yet for the same reasons, (multiple defendants and personal interests) many of the cases will become exceedingly complex and proceed to resolution, if at all, at a snail's pace but at large expense to both parties, plaintiff and defendant. Thus, from any reasonable perspective, the current scheme of civil tort liability is a failure.

S.1775 would resolve each of these problems in the fairest and most workable way that has been suggested to date. Public servants would no longer be subjected to the spector of the loss of their homes and their childrens'

education for actions taken in the scope of their employment. At the same time, their conduct would just as surely be amenable to the scrutiny of the courts through an action brought against the United States where even the good faith and reasonableness of their actions could be challenged. The citizen would not lose his day in court. Rather he would gain a greater guarantee of having a hearing in a judicial forum. The citizen would be presented with a defendant amenable in every case to personal jurisdiction and service of process, who would be in a position to settle cases and who could pay the adverse judgment that might result from trial. Cases would proceed much more expeditiously to resolution with the cost to both parties drastically reduced. To paraphrase an earlier witness in these hearings, the original plaintiff, Webster Bivens, would fare better under this legislation than under existing case law.

Opponents to this legislation[9]/ raise primarily an argument based upon the principle of accountability. The reasoning is that the current sword of Damocles which hangs over the head of the public servant prevents him or her from doing wrong. The short answer is that it prevents him or her from doing what is right. "The deterrence we have is that of deterring federal employees from doing their duty."[10]/ The knowledgeable official who is aware of the state of the law cannot help but face a difficult decision with trepidation because of, what should be an extraneous, consideration for his or her personal welfare. The welfare case worker, the probation officer, the meat inspector, the contract officer,

the revenue agent, the congressional staffer, the law enforcement officer, the personnel manager, the job foreman, the federal veterinarian, even the forest ranger are at least given pause and perhaps prevented from carrying out the very mission that Congress has set for them. This state of affairs means that the taxpayers are not getting the quality of service for which they are paying.

In addition, I submit that the accountability argument places undue emphasis upon a damages remedy and ignores the plethora of other sanctions available ranging from agency punishment, including loss of livelihood, to a finding that the actions were beyond scope of employment and not actionable against the United States, to injury to professional reputation, to criminal prosecution. Moreover, I submit that a letter from the Attorney General to the head of an agency calling into question the conduct of an employee whose actions have been found sufficiently lacking in good faith or reasonableness to require payment of a claim will be taken very seriously indeed. This Bill would require such a letter. The damages remedy is one small piece of the pie and the people of the United States pay far too large a price for it.

In the same vein, it is important to note the preoccupation of the opposition with law enforcement torts. The original Bivens case arose out of law enforcement and that has been the traditional way to think of this area of the law. However those kinds of cases are now a decreasing percentage of the whole. As I have noted, there are cases arising generally

from personnel matters and from virtually every other government activity. Excluding cases filed by prison inmates, these three types (general government, law enforcement, personnel) are the three main categories of current filings. The law enforcement cases appear to make up somewhat less than a third.

Equally important to note is that this legislation is not designed for the relief of past and present high level officials. Based on our experience at the Department of Justice, the people who are now being sued in increasing numbers are the citizen-level workers of government, the professional and non-professional public servants who are charged with directly administering the services mandated by the Congress and the executive.[11]/ That brings us to the final major argument of opponents to S.1775.[12]/ It sounds in the proposition that there may be an occasional miscreant who escapes retribution should the legislation be enacted. First, as a result of the system of sanctions and subjective restraints, such as professional reputation, already in place and documented in this record we think that eventuality to be unlikely. Secondly, in order now to be sure of having the narrow, yet unlikely, legal possibility of punishing the very few through civil damages, we have placed in jeopardy and confusion the functioning of all civil servants and have not correspondingly provided the plaintiff with a remedy that he can expect to be realized. In other words, the current "remedy" is grossly disproportionate to the problem.

In the final analysis then, the system as it exists s does not work. Few would dispute that S.1775 represents a improvement. Most, including both victims of torts and victims of suits, would conclude that it represents a grea improvement. Thus it is clearly in the public interest to pursue S.1775 to enactment. It bears remembering that the scheme established by the Bill would not be irrevocable. experience dictates, it can be modified by appropriate leg to achieve greater equity and efficiency should the need a We can certainly do no worse than that which now exists. also submit that we will indeed have done much better sho this proposal become law.

Mr. Chairman, we would be pleased to respond to your questions.

FOOTNOTES

1/ In an article entitled "Suing Our Servants" appearing in the 1980 edition of The Supreme Court Law Review published by the University of Chicago, (page 281), Peter H. Schuck, Associate Professor of Law, Yale Law School, makes a convincing case for the proposition that the most frequent targets of such suits are the everyday public servants who operate at the level which deals directly with the public; e.g. the welfare or social service case worker, the safety inspector, the hospital administrator, the law enforcement officer, etc.

2/ There are some limited classes of employees who may, by specific statute, be held harmless or insured by their department or agency heads within the latter's discretion. 10 U.S.C. 1089(f) (DOD medical personnel); 38 U.S.C. 4116(e) (Dept. Medicine and Surgery personnel); 42 U.S.C. 233(f) (certain Public Health Service officers); 42 U.S.C. 2458a(f) (NASA medical personnel); 22 U.S.C. 817(f) (Foreign Service medical personnel). These persons are already personally immune through exclusive remedy provisions virtually identical to that proposed in S.1775. The "hold harmless" provisions presumably were added to provide for the theoretical case in which an exception to FTCA jurisdiction under 28 U.S.C. 2680 might be construed to leave open a common law tort suit only against the individual. Such a final protection would be a wise provision to add to S.1775 and we would be happy to provide appropriate language.

3/ See testimony of Jerome F. O'Neill, Robert C. Lehman, John S. Martin, Jr., and William B. Cummings, of November 13, 1981. Testimony of William Howard Taft, IV, Dr. Marvin Schneiderman, Mr. Jerry Shaw and Mr. Rod Murray of November 16, 1981.

4/ Duarte v. U.S., 532 F.2d 850 (2d Cir. 1976); Norton v. U.S., 581 F.2d 390 (4th Cir. 1978); Ames v. U.S., 600 F.2d 183 (8th Cir. 1979); Jaffee v. U.S., 592 F.2d 712 (3rd Cir. 1979); Baker v. F & F Investment Co., 489 F.2d 829 (7th Cir. 1973).

5/ Rule 12(b)(2)(3)(4) and (5), Federal Rules of Civil Procedure. Stafford v. Briggs, 444 U.S. 527 (1980).

6/ Written testimony of Edward C. Schmults submitted on November 13, 1981, footnote 11. In addition, we have been advised of the following four judgments:

Hobson v. Jerry Wilson, et al., D. D.C. Civil Action No. 76-1326. A total of $711,000 was awarded seven former antiwar activists against fourteen present or retired officers of the FBI or the Washington, D.C. police department. The suit charged violation of constitutional rights during undercover surveillance activities in the 1960s and 70s. The verdict was complex, awarding different amounts for and against different parties.

Epps v. United States, et al., D. Md. CA No. J-78-2373. A judgment of $200,000 was awarded against a Field Branch Chief of the IRS for allegedly vandalizing the property of the plaintiff while her business was in the possession of the IRS.

Nees v. Bishop, et al., D. Col. 524 F.Supp. 1310 (1981). $1,000 was awarded to a plaintiff who alleged that the losing defendant had deprived him of his right to counsel by allegedly advising state custodial authorities that he need not see a state public defender since he had been incarcerated on a federal charge.

Clymer, Jr. v. Grzegorek, et al., E.D. Va., CA No. 80-1009-12. Damages of $1.00 were awarded against a former federal correctional institution warden in favor of a prisoner who claimed overcrowding and understaffing led to violence and an assault upon him.

7/ Our latest figures indicate that there are 18 pending cases where private counsel have been hired. Some 41 law firms are under contract and requests are pending in 4 other cases contingent upon the realization of funding.

8/ See testimony of Messrs. Martin and O'Neill on November 13, 1981 and of Dr. Schneiderman and Mr. Shaw on November 16, 1981.

9/ See testimony of Mark H. Lynch, ACLU, of November 13, 1981 and of Alan B. Morrison and Louis Clark of November 16, 1981.

10/ Testimony of Mr. O'Neill, November 13, 1981.

11/ See also the article by Professor Schuck referred to in footnote 1 supra.

12/ Opponents have also raised an argument that S.1775 may be unconstitutional. Quite to the contrary, the Supreme Court in Carlson v. Greene, 446 U.S. 14 (1980), clearly held that Congress could declare the Federal Tort Claims Act to be an exclusive remedy but had simply not yet done so. Moreover, exlusive remedy provisions have been upheld in the past as being constitutional. See Nistendirk v. McGee, 225 F.Supp. 981 (W.D. Miss. 1963); Vantrease v. United States, 400 F.2d 853 (6th Cir. 1968). See also, Silver v. Silver, 280 U.S. 117 (1929). Furthermore, as the testimony of the Director of the Office of Personnel Management points out today, there are suggestions in the Bivens case itself that Congress should legislate a comprehensive solution. See 403 U.S. at 412, 418 and 421.

THE WHITE HOUSE

WASHINGTON

March 8, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Proposed Testimony by Ted Olson on OLC Oversight and Authorization

The Department of Justice has submitted the above-referenced testimony, to be delivered March 10 before the Subcommittee on Monopolies and Commercial Law of the House Judiciary Committee. The testimony is very brief. It describes the role of the Office of Legal Counsel as assisting the Attorney General in his role of legal adviser to the President and Executive Branch, reviewing Executive Orders, and resolving Executive Branch legal disputes. It notes as two of the "major projects" of the office in the past year a memorandum on legal authorities available to respond to an energy shortage and another on federal non-reserved water rights. I see no legal objection.

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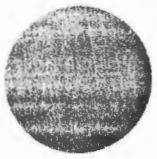

Name of Correspondent: Theodore B. Olson

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Subject: Draft statement on oversight and authorization of the Office of Legal Counsel

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STATEMENT

of

Honorable Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

On Oversight and Authorization of
the Office of Legal Counsel

before the

Subcommittee on Monopolies and Commercial Law
of the
House Committee on the Judiciary

March 10, 1983

Mr. Chairman and Members of the Subcommittee:

I am pleased to have the opportunity to appear before the Subcommittee this morning in connection with this oversight and authorization hearing regarding the Office of Legal Counsel of the Department of Justice.

The principal function of the Office as set forth in 28 C.F.R. § 0.25 is to assist the Attorney General in his role as legal adviser to the President and Executive Branch agencies. Requests for legal advice are received from a variety of sources, including the President, the White House staff through the Office of Counsel to the President, the Attorney General, heads of other executive departments, and other Department of Justice officials. A small number of requests are considered appropriate for formal Attorney General opinions, which are drafted preliminarily in the Office and reviewed, revised and approved by the Attorney General The majority of such requests result in the preparation of legal opinions signed by the Assistant Attorney General or one of the Deputies based upon the research of one or more of the 16 staff attorneys. Still other requests result in the provision of oral advice to the client.

The Office has the responsibility to review proposed Executive Orders, examining each with regard to form and legality before it goes to the President for signature. Under Executive Order 12146, the Office has been charged with responsibility for considering and resolving legal disputes between two or more departments. This charge reflects the historic role performed by the Office with regard to the resolution of such disputes over many decades. The Office also plays a role in resolving differences between the Department's litigating divisions and their many client agencies regarding positions to be taken by the United States or its agencies before the courts.

The Office of Legal Counsel also provides legal advice to the President and his staff regarding the scope of the President's constitutional duties and responsibilities in the context of the constitutionally prescribed separations of powers.

During the past year, the Office has completed several major projects, including a Memorandum of Law entitled " Legal Authorities Available to the President to Respond to a Severe Energy Supply Interruption or other

Substantial Reduction in Available Petroleum Products" dated November 15, 1982 (prepared pursuant to § 3 of the Energy Emergency Preparedness Act of 1982, Pub. L. No. 97-229, 96 Stat. 248, and a memorandum of law on the subject of "Federal 'Non-Reserved' Water Rights" dated June 16, 1982.

This concludes my statement, Mr. Chairman. I shall be pleased to answer any questions you or other Members of the Subcommittee may have.