

## **Parts on Stevens Trial Are In Bold**

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Federal News Service

March 25, 2009 Wednesday

HEARING OF THE SENATE JUDICIARY COMMITTEE;  
SUBJECT: OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION  
CHAired BY: SENATOR PATRICK J. LEAHY (D-VT)  
WITNESS: ROBERT S. MUELLER III, DIRECTOR, FEDERAL BUREAU OF  
INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE;  
LOCATION: 216 HART SENATE OFFICE BUILDING, WASHINGTON, D.C.

SEN. LEAHY

Good morning. Oversight is one of the Congress's most important responsibilities and one this committee will continue to fulfill; as it has in past Congresses, it will in this Congress.

Today we welcome back to the committee Director Mueller, the Federal Bureau of Investigation, no stranger to this committee. It is now six months since our last FBI oversight hearing. And we will soon hold an oversight hearing with Secretary Napolitano and then with Attorney General Holder, who had his confirmation hearing for us two months ago. So we'll talk about the effectiveness of the Federal Bureau of Investigation in carrying out its critical missions to keep us secure while upholding the rule of law.

We had a commemoration -- and I was pleased to be there -- the 100th anniversary of the FBI last year. I want to quote something from what Director Mueller said. He said, quote: "It is not enough to stop the terrorist. We must stop him while maintaining his civil liberties. It's not enough to catch the criminal. We must catch him while respecting his civil rights. It's not enough to prevent foreign countries from stealing our secrets. We must prevent that from happening while still upholding the rule of law. The rule of law, civil liberties and civil rights -- these are not our burdens; they are what make us better. They're what made us better for the past 100 years."

And I talked to the director after that and commended that speech. In fact, I referred to it on the floor of the Senate and put it into the record.

There are many vital issues we have to work together on. One of particular importance is aggressive enforcement of the mortgage fraud and financial fraud that contributed to the massive economic crisis we're facing. I see Senator Grassley here; he and I have introduced, passed out of this committee legislation which I understand may be on the Senate floor next month in that regard.

Director Mueller will share with us the FBI's mortgage fraud caseload, and that's more than doubled in the past three years with all sides pointing to a continued increase in fraud cases. There's of course the need to police the use of the recovery funds. All of these are straining the FBI's resources.

I think the FBI has taken good steps to bulk up fraud enforcement using creative measures, including new technologies and also interagency task force. In his budget outline, the president showed leadership by committing to provide

additional resources to the FBI to investigate and prosecute mortgage fraud. In my view, we have to do still more.

More is needed to give investigators and prosecutors the resources they need to aggressively detect and prosecute these insidious forms of fraud. The Fraud Enforcement and Recovery Act 2009 I mentioned; Senator Grassley and Senator Klobuchar, Senator Kaufman, Senator Schumer and I put that legislation in to do exactly that. And I appreciate the bureau's assistance in developing this important legislation.

Yesterday, the majority leader said he is going to try to have it on the floor by -- during the first week we're back after the Easter recess. I suspect it will pass overwhelmingly, and I hope we get a time agreement to do that.

Over the last couple of years the director has identified public corruption as the bureau's top criminal priority. Recent high-profile cases make clear the importance of aggressive enforcement of corruption laws. The Public Corruption Prosecution Improvement Act, that's a bill I introduced with Senator Cornyn of Texas to give investigators and prosecutors tools they need in this regard; that's also been reported to the Senate.

And there are other issues that have risen in the past few years. One is the misuse of exigent letters to obtain phone records and other sensitive records of Americans, including reporters, without a warrant. These letters claimed emergency conditions that were not applicable, promised a legal -- follow a legal process that never came. And I hope the director will be able to assure us -- and the inspector general confirm -- that appropriate steps have been taken to prevent a repeat of that abuse. I ask the director to address concerns we have that the records may have been illegally obtained with these exigent letters and then inappropriately retained by the government.

I've been concerned -- I've discussed this with the director -- about the FBI's responsiveness to request for information under the Freedom of Information Act. Open government's a key to strong democracy. It's a principle that's been embraced by the new president and the attorney general. The FBI's got to be faster in their responses.

Now, during the hearing we'll discuss, as we always do, the good and the bad. How the FBI worked to clear the backlog of name checks for immigration voting purposes, how the FBI has improved its crime lab testing, but also which problems remain -- and the expiring provisions of the Patriot Act. In the area of violent crimes there are disturbing signs that crime rates may increase significantly in response to the financial crisis and we'll talk about that.

But mostly, I applaud the director's efforts to recommit the FBI to its best traditions. He has done it through not only his statements, but his personal example in leadership. And I appreciate his openness to oversight and accountability. I might state, parenthetically, there has never been an instance when I've called when I've had a question about some action that the director hasn't been on the phone immediately and been responsive.

Senator Specter.

SEN. ARLEN SPECTER (R-PA): Thank you, Mr. Chairman.

Before addressing the oversight hearing today -- a very important one on FBI Director Mueller -- I want to comment about a matter which you just raised with me, and that is the confirmation hearing of nominee Judge Hamilton for the 7th Circuit. I wrote to you yesterday on the subject because of a concern which I have, as well as my caucus, on the timing. And I would ask that that letter be made a part of the record.

SEN. LEAHY

It was. I actually read it first in the press and then I read it secondly. And so it has been in the public record because it was pretty well reviewed in the press. But we'll put it in the record.

As I also mentioned to you this morning, I've had a number of times that requests from your side of the aisle -- I've delayed hearings and all -- a confirmation hearings and then had further delays put in even though I've tried to cooperate that way. The attorney general, Holder, being one example where delayed it for a week or two and then it was put over another week and then delayed for another week on the floor. And he subsequently was confirmed with the largest vote of the last four attorneys general.

I mention a markup here recently having put over, at request of the Republicans, a couple nominations and delayed them to give them more time, and then unexpectedly they were put over under the rule by the Republicans and I was somewhat frustrated that it seemed to be one sided.

But I know that Judge Hamilton is strongly supported by Senator Lugar and Senator Bayh. We will have the hearing, but then we'll have almost three weeks after that before any markup comes up because of the Senate calendar.

SEN. SPECTER: Well, if I may return to the subject that I started on and thought I had the floor on.

The issue is not the time after the hearing -- on preparation -- the issue is on preparation to ask questions at the hearing. That's what the hearing is about. And I was about to say that Judge Hamilton has a very extensive record on the federal district court, has some 1,200 opinions.

Now, in the time sequence set forth in the letter -- and let me say that my chief counsel handed me a note that we did not release the letter to the press. And if there is any proof to the contrary and we identify somebody on my staff who did it, he won't be on my staff any longer.

But let's get to the substance which is important on the confirmation process. And that substance is that it's a lifetime appointment, and when a comment is made by the chairman to me that when you have a conservative senator like Dick Lugar approving this nominee that's sufficient, well, it's not sufficient.

There's a little thing called the Constitution and it calls for confirmation by the Senate. It doesn't call for approval or recommendation by the home-state senator. That's indispensable under our blue-slip policy -- or at least under the blue-slip policy when we had a Republican president. And that's another subject that the Republican Caucus is going to insist on continuation of the practice.

But Dick Lugar doesn't confirm -- the Senate does. And the recommendation of the Judiciary Committee is indispensable on that and there needs to be time to make an analysis. And to have a period of time after the hearing -- it doesn't do

any good unless there's another hearing. And I know that's not contemplated and that's not necessary.

Now, Director Mueller, thank you for coming. And on to lesser, serious subjects like terrorism and violent crime and the death penalty -- (laughs) -- and other subjects which are very much in the forefront of the concern of the American people and on this committee.

Terrorism remains a major problem in this country. And the first question I'm going to ask you is whether you're in a position to assure the American people of two things: number one, that the mistakes on 9/11 will not be repeated, and secondly that we've made significant advances overall on coordination in the fight against terrorism with respect to the duties that the FBI has.

We have enormous problems on violent crime and we have a way in this country of saying that we can't afford to pay for the prosecution and incarceration of violent criminals because of our other governmental financial obligations. Well, that's unsatisfactory.

Security is number one. National security is at the top of the security list. And terrorism is at the top there, but so is domestic security. And where you have public officials saying the death penalty ought to be eliminated because we can't afford to enforce it, well, in my view that's not acceptable.

If there's a decision made in this country that we ought to change the rules and not have the death penalty, that's one thing. My own view from experience as a district attorney is that it's a deterrent if it's properly used. It has to be properly used, but that's a complicated subject. But the issue as to whether we can afford it is one which I want to take up with you.

And our prisons are overcrowded, but we can't let violent criminals loose. Now, if we can make better judgments as to who ought to be detained, fine. We ought to be doing that. If we can work through prevention, rehabilitation of drug addicts mentoring of at-risk youth, taking second-chance people and getting them out of the crime cycle so they don't go back to prison, that's something we need to do. And you have some important things to say.

And then I want to talk to you about white-collar crime. I see too many major prosecutions ending in fines which turn out to be licenses to do business -- licenses to violate the law. And certainly, prison is a deterrent for white-collar crime. And I want to know what's going on -- it's not that I want to know, America wants to know what's going on with all of the fraud which has led us to the terrible economic situation we have now where there have been misrepresentations about balance sheets and widespread selling of insurance around the world without a reserve.

Has there been a representation here which has been breached? Is there fraud? Fraud's a crime. In this magnitude there ought to be jail sentences to deter others, and that's a subject that I will want to talk to you about.

**And then I'm going to want to ask about what kind of oversight there is on corruption prosecutions. We had a prosecution of a senator, Ted Stevens, which has drawn severe criticism by the federal judge, contempt citations against federal prosecutors; an FBI agent is implicated. And there's an issue here as to what will happen there, and it may be a matter for**

**oversight by this committee when the case is finished, or perhaps even sooner. It's a matter for the chairman.**

**But I'll want to know what the FBI does -- is doing on that case and what the FBI is doing in terms of providing oversight. As a district attorney, I saw many young prosecutors cut corners looking for big targets, publicity, high-profile cases, and the prosecutors have to be quasi-judicial and not do that. That applies to the FBI agents as well, a subject that I want to take up with you.**

And finally, you come on a very busy day, Director Mueller, but you're used to that. We have Justice O'Connor testifying before another committee I'm on and we have Governor Rendell testifying before a third committee, so as you know, the senators will come and go, but we're very concerned with what you have to say.

Thank you, Mr. Chairman.

SEN. LEAHY  
Thank you.

Please go ahead.

MR. MUELLER: Thank you, Chairman Leahy, Senator Specter, and members of the committee.

As you know, we in the FBI have undergone unprecedented transformation in recent years, from developing the intelligence capabilities necessary to address emerging terrorist and criminal threats to creating the administrative and technological structure necessary to meet our mission as a national security service.

Today the bureau is a stronger organization, combining better intelligence capabilities with a long-standing commitment to protect the American public from criminal threats, and we are also mindful that our mission is not just to safeguard American lives but also to safeguard American liberties.

Certainly, the threats currently present in the national security arena continue to be a grave concern. Terrorism remains our top priority, and as illustrated by the recent Mumbai attacks, we cannot become complacent. Al Qaeda, lesser known groups, and homegrown terrorists will continue to pose a threat to the United States.

We must also continue to guard our country's most sensitive secrets from hostile intelligence services and remember that our nation's cyber infrastructure is vulnerable to compromise or disruption, be it from a terrorist, a spy or an international criminal enterprise.

But these three are by no means our only priorities. While Americans justifiably worry about terrorism, it is crime in their communities that often most directly impacts their daily lives. **Public corruption continues to be our top criminal priority. The FBI has 2,500 pending public corruption investigations and in the last two years alone has convicted more than 1,600 federal, state and local officials, and we remain committed to ensuring those given the public trust do not abuse it.**

Economic crime is, of course, a critical concern, now more than ever. For example, the FBI's mortgage fraud caseload has more than doubled in the past three years, from 700 to more than 2,000 active investigations, and we currently have more than 560 pending corporate fraud investigations, including cases directly related to the current financial crisis.

In response, we have been shifting personnel within the criminal branch to the extent possible. We have been using new analytical techniques to better identify trends and violators, and we have been building upon existing partnerships to further leverage expertise and resources.

For example, we created the National Mortgage Fraud team at FBI headquarters to prioritize pending investigations, provide additional tools to identify the most egregious violators, and provide strategic information to evaluate where additional manpower is needed. We have also established 18 mortgage fraud task forces and 47 working groups with other government agencies across the country so that we may more effectively focus on particular problem areas.

And while the FBI is surging to mortgage fraud investigations, our expectation is that economic crimes will continue to skyrocket. The unprecedented level of financial resources committed by the federal government to combat the economic downturn will lead to an inevitable increase in economic crime and public corruption cases.

Historically, the bureau handled emerging criminal threats by transferring personnel within its criminal branch to meet the new threat. After 9/11, we have lost some of this elasticity. In response to the September 11th attacks, the FBI permanently moved approximately 2,000 of its criminal agents to our National Security Branch. This transfer has substantially improved our counterterrorism program and we have no intention of retreating from preventing another terrorist attack on American soil as our number one priority.

But the logical consequence of cannibalizing our criminal resources to augment our national security efforts is that we have reduced the ability to surge resources within our criminal branch. Although we have begun an effort to rebuild our criminal resources back to our pre-9/11 levels, we still have a substantial way to go. As always, the FBI will set priorities to attack the most severe threats, but a note of realism is in order in light of the scale of the FBI's existing mission after September 11th and the degree of strain on our current resources.

Violent crime is also a very serious concern, and although data indicates violent crime declined across the country in recent years, the citizens of many communities, especially small to mid-size cities, continue to be plagued by gang violence and gun crime. Since 2001, our gang cases have doubled, and the spread of international gangs such as MS-13 has increased.

The FBI continues to combat this threat through more than 200 safe streets, gang, violent crime and major theft task forces across the country. These task forces enable us to work effectively with state, local, tribal and international partners to provide an immediate response to the surges in violent crime.

And so, too, must we continue our work with state and local counterparts to combat crimes against children, the most vulnerable members of our communities.

We are also deeply concerned about the high levels of violence along the Southwest border. Gang activity and drug cartel competition for supremacy, murders and kidnappings plague the border in both the United States and in Mexico. These crimes can even impact communities deep in America's heartland.

In recent visits with my counterparts in Mexico, I was again convinced that they are as concerned and certainly as committed as we are. This commitment is underscored by the fact that several of the top police and justice officials with whom we have in the past forged relationships have been assassinated by drug gangs. We will continue our strong alliance with our Mexican law enforcement partners to address this border-related crime.

I also want to update you on key changes we have made within the FBI, both in our structure and in the way we do business, to more effectively meet the challenges presented since September 11th. We know that the FBI's best and strongest asset is our people, and so we have paid attention to recruiting, training and maintaining a work force with these skills necessary to meet the challenges of today's mission. Our hiring goals include agents, analysts, IT specialists, linguists and professional staff. In this year alone, we've received more than 300 applications and have extended already 4,400 job offers.

We have strengthened our training at the FBI's Quantico Training Academy for both agents and analysts. The numbers of state, local and international law enforcement executives graduating from the FBI National Academy has grown, and we are revamping our approach to developing leaders at all levels within the FBI, recognizing that today's new employees are the leaders of tomorrow's FBI.

Finally, a few words regarding improvements in FBI technology: Sentinel, our Web-based case management system, is on time and on target. BlackBerry's with Internet capabilities have been issued to over 24,000 of our personnel. We currently have more than 30,000 workstations in the FBI unclassified network providing desktop Internet connectivity to employees throughout the enterprise. We are also strengthening several information technology programs, described more fully in my formal statement, that will allow us to communicate and share information with our law enforcement and intelligence partners.

In closing, let me thank this committee for your support, for the men and women of the FBI, and I look forward to working with the committee on these and other challenges facing our country.

Thank you, Mr. Chairman.

SEN. LEAHY

Thank you very much, Director Mueller, and I just want to touch on a couple of things.

You talked about -- and we've talked about here -- I mentioned the wave of mortgage and securities fraud, and of course when you have an economic downturn and you add mortgage and securities fraud, it just makes it worse for all Americans. The number of mortgage fraud allegations throughout the country has increased almost tenfold since 2002. I know the FBI's mortgage fraud investigations have doubled in the last few years.

We could talk about the unprecedented fraud scandals like the Madoff \$50 billion Ponzi scheme. If you saw that in a book of fiction a year ago or a couple years

ago, everybody would say that's impossible, but they've undermined confidence in our economy and I think they may be the tip of the iceberg.

Now, the FBI can only do so much. It's had people reassigned to counterterrorism. In other areas, we've seen white-collar crime prosecutions drop off as a result of investigations. I think back to the '80s when during the savings and loan debacle, and I agreed with -- Senator Specter made reference to the fact that it might become just the cost of doing business if you're just having fines, and I feel very strong in some of these instances that the people involved with it think they're actually going to go to prison.

That shapes their mind a lot more than losing 5 percent off their profits in a fine.

It's why I mentioned Senator Grassley and Senator Kaufman and others introduced the Fraud Enforcement and Recovery Act. In our act, we have increased tools and resources for the FBI. And I mean this seriously: Would those increased tools -- are those increased tools and resources thing that would actually help the FBI? Would it make you more effective in this area of mortgage fraud and white-collar crime?

MR. MUELLER: Absolutely. Certainly, whatever additional resources we can receive or do receive with regard particularly to mortgage fraud -- the subprime crisis -- will go to addressing the caseload of over 2,000 that we have currently around the United States with an expectation that will increase.

I'll note that in the stimulus package, the Senate had recommended adding 165 special agents. That was not adopted by the House, but that additional complement of resources would have been exceptionally helpful, and those resources that are in the Fraud Enforcement and Recovery Act will be put to good use.

Also, the redefinition of the definition of financial institution, expanding securities fraud provisions to include fraud relating to options, futures and commodities and a number of the other provisions of the FERA will be tremendously helpful in giving us the tools to investigate, to ultimately help prosecutors prosecute, and finally to obtain the convictions and the jail sentences that are the deterrent to this activity taking place in the future.

SEN. LEAHY  
Thank you.

I noticed today the secretary of State has gone to Mexico, and relations have been somewhat strained there in the question of drug crime, the drug cartels. A recent article I read in a major publication asked, is Mexico becoming a failed state or a mediocre state? -- either way being bad news to the United States. I'm not asking you to say what kind of a state they are, but they're our second-largest trading partner, they're a democratic country, and yet they had -- since January of last year they've had more than 7,000 people killed in drug-related violence. Some of it is horrendous: police, military, people involved in drug, ordinary citizens, kidnappings, extortion. A lot of it has spilled over into the borders into California, Texas and other borders.

You have traveled to Mexico. You've seen some of these problems firsthand. We have -- the Obama administration announced a plan to redouble our efforts to work with them.

How do we work with them with the amount of corruption there is there? I think everybody here wants to work with them -- want to help, how do we do this? I mean, it seems like an almost herculean task.

MR. MUELLER: Let me start by saying I do believe President Calderon has taken an exceptionally principled approach to address the drug trafficking in Mexico, and as a result of his efforts -- his efforts to address corruption, his efforts to put in place a police force that is free of corruption, his efforts to change the criminal justice and judiciary system to eliminate corruption -- all of those have resulted, to a certain extent, in a short-term peak of violence.

But I have no doubt about President Calderon's desire to address this and to continue to address this. We work closely with the attorney general, Medina-Mora, and the director of public security, Garcia Luna. And every one of those individuals is adamant about pressing forward with this war on the narcotics traffickers.

You asked a question about the extent of public corruption. Yes, there is, and we at the bureau as well as the DEA traditionally have worked with vetted units. And a key to addressing the public corruption is having vetted units that are vetted by both ourselves as well as the Mexican authorities so that you know that those individuals are handling these cases free of the corruption that has been seen in Mexico.

I'd also say that the violence has peaked in a number of cities -- Juarez and Tijuana, to mention just a few. And it requires, I do believe, a thorough and -- a surge, if you will, in those cities to drive down the homicides that were prevalent in those two cities and we are seeing that now in Juarez as an example.

SEN. LEAHY

We may want to have your department send somebody up here to just do a private briefing. A number of members have asked questions about this and we can do it in a more secure room and discuss it because there are concerns.

My last question, before going to that -- and I will follow up on the Mexican thing - - the FBI's general counsel provided the committee with a briefing on steps the FBI has taken following the discovery that more than 700 so-called exigent letters were used improperly to obtain thousands of citizens' telephone and other records.

The FBI was supposed to use national security letters to obtain this. They didn't. The FBI supervises agents that handled this from a particular FBI unit to obtain records in violation of the law by sending letters promising the subpoenas would be issued, even though none ever were. The inspector general is investigating this.

I understand that the FBI has now issued new retroactive national security letters after the fact in order to justify holding on to more than half these records. In some cases the FBI has decided to hold onto the records without issuing any new letters.

If the FBI didn't have the legal authority to obtain the records in the first place, what legal authority do you have to hold on to them years later, and what kind of legal authority is there for issuing retroactive national security letters?

MR. MUELLER: Let me -- in the cases where we have a legal basis to obtain those records -- in other words a touchstone for a -- the issuance of a national security letter that would -- in which we would have appropriately used the particular protocol or format, then we have kept those records. But there has to be a touchstone which enables us -- gives us the legal right to obtain those records.

Let me say more generally that I believe that the attorney general -- not the attorney general but the inspector general, when he finishes his report, and he has not yet finished it, will find that yes, there were substantial lapses in internal controls, that we did use exigent letters in circumstances where we should not -- where there was not the exigency, and that at least in one area where we attempted to rectify it, we did not do it appropriately.

My expectation is that he will find that those things occurred. They occurred back in 2006, 2005, 2004. We stopped utilizing exigent letters in 2007. My belief is that we put into place the -- a number of procedures that will assure that this will not happen again, including a compliance office that looks at compliance not just when it comes to national security letters but other areas of the bureau where we have an obligation under the statutes, under the laws to comply and we want to make certain that we don't repeat what happened with the national security letter issue.

SEN. LEAHY

Thank you, and when I come back I'm going to go back to the retroactive issue, though.

Senator Specter?

SEN. SPECTER: Thank you, Mr. Chairman.

Director Mueller, with so many topics to be discussed and only seven minutes to do it, I ask you to submit responses on terrorism in writing.

MR. MUELLER: Yes, sir.

SEN. SPECTER: And the questions are, are the errors that you and I discussed here seven years ago with Moussaoui of the Minneapolis office and the coordination with the CIA leading to 9/11 -- are those specific problems now corrected?

And secondly, overall, are we in better shape today? I know the answer is yes. We've discussed this informally, and some specification as to what has been done -- be very helpful for the American public to have a statement from the director of the FBI -- summary, not enormous, but summarizing what has been done to give us assurances.

Nothing is a foolproof system, obviously, but I know a great deal of effort has been undertaken and you've been at the center of it and you've been there all the time, unlike the CIA directors or the DNI, only a recently created office.

So you have a unique perspective on it. So if you'd respond to that in writing, I'd appreciate it.

Let me take up the question of our ability of our being able to afford security from violent crime. Taking a look at some of the offenses -- federal offenses which are

punishable by the death penalty: assassination of the president, espionage, treason, killing of a federal witness to prevent testimony at a trial, drug kingpins, hijacking of airplanes which results in death -- in your judgment, should the death penalty be retained on those offenses and generally where the Congress has established the death penalty?

MR. MUELLER: In appropriate cases, yes.

SEN. SPECTER: And while it's not federal jurisdiction, what is your response to the repeated public comments now by state officials that the death penalty needs to be abandoned because it's too expensive to carry it out? What do you think about that?

MR. MUELLER: I'm not familiar with those comments. I would go back to the initial question you asked, is the death penalty appropriate and still appropriate in certain of the actions that fall within the statutes that carry the death penalty as the appropriate penalty? I believe yes, there are certain instances where I believe the death penalty is appropriate. I know other countries disagree with that, but nonetheless, I believe in certain instances it's appropriate.

SEN. SPECTER: With respect to our prison population, is there any substitute for incarcerating violent criminals for public safety?

MR. MUELLER: Talking about violent criminals, it depends, quite obviously, on the individuals. But generally, a person who has a proclivity for undertaking violence, the likelihood of rehabilitation diminishes, and incarceration may be the only protection for the American public.

SEN. SPECTER: Let me ask you this, Director Mueller: With respect to the federal prison system, I would appreciate it if you would have some thought given to the question as to what can be done -- your bureau knows them thoroughly, you've investigated them -- where we could make a segregation and have a view to release or differentiation on sentencing. That's a little bit outside your purview, but you have the kind of expertise. I'm going to direct the same question to the attorney general.

I want to move on now to the white-collar crimes. You say you have some 700 cases. The thought occurs to me that it would be very salutary if you could move ahead on some of them promptly. We just had a prosecution in Philadelphia, federal prosecution of a state senator, Vincent Fumo. There're more than 100 counts. The investigation took years, the trial took months. All of that wasn't necessary. I was a district attorney myself, handled complex cases. You could move through the cases, the investigation, without bringing hundreds of counts.

Let me ask you to take a look at that issue, too, and respond in writing if there are some of those cases that could be expedited. Public attention is very brief and it would be, I think, very helpful to our overall system in this economic crisis and give public assurance.

I have the question all the time, what's going on, where's the accountability, who's going to go to jail? Well, we're not going to send people to jail who don't deserve to go to jail. But if they deserve to go to jail, my core question, I'm sure you understand, is, what can we do to expedite the investigations and prosecutions and narrow them? If there are some more investigation, prosecution doesn't succeed, you can investigate further, you don't have to have 100 charges.

Final subject I want to talk to you --

MR. MUELLER: May I just address that very briefly to say that we're working with a number of U.S. attorneys with the Department of Justice for what we call fast-track prosecutions in a number of area. And we are doing -- as I indicated in my remarks, we're prioritizing our cases to get the most egregious early and put those people away. So we share your concern and your desire for a fast-track approach to a number of these cases of which we have 2,000 at this juncture.

**SEN. SPECTER:** Well, maybe you could narrow them even further -- (laughs) -- to expedite them even further, as examples for deterrence.

**Final subject that I want to bring up with you is the one I mentioned -- the Stevens prosecution. In this case, the trial judge severely admonished the Department of Justice for inappropriate conduct. And an FBI agent, Chad Joy, alleged the prosecutors knowingly withheld Brady evidence -- that a member of the prosecution team relocated a witness to keep him from testifying because he had done poorly in a mock cross-examination.**

**This FBI Agent Joy said a female FBI agent had an inappropriate relationship with Allen, a key witness, and there were contempt citations and the FBI agent was involved, and you and I discussed it informally, but I think it's important to put it on the record. And I alluded in my opening statement to problems which I saw where prosecutors were anxious for notoriety, to bag the big target and require a lot of supervision.**

**And my question to you is, what kind of supervision -- and I'm going to put this similar question to Attorney General Holder, and I understand he's making a personal review of the Stevens matter with regard to impropriety of the prosecutors, which the judge has already made a finding on, on contempt. But what efforts are made at a senior echelon of mature people in your bureau to make sure that your FBI agents don't overstep and act inappropriately because of their desire to get a so-called big target?**

**MR. MUELLER:** Let me start by saying, Senator, that, as you're aware, in that particular case the issues that you raised are the subject of post-trial motions that are being addressed not only by the judge and the post-trial briefings and hearings but also by a team at the Justice Department that is looking at the allegations where they would relate to the prosecutors or the FBI.

**You also, I think, are quite aware that in a public corruption case, particularly a serious public corruption case, the decision whether or not to take action is overseen by a number of people at levels, whether it be the assistant attorney general in charge of Criminal Division, the deputy attorney general, and ultimately the attorney general to assure that the case is appropriately brought.**

**If in the course of that case there are allegations, whether it be attributable or against a prosecutor or an FBI, then that is investigated, FBI agents by ourselves but also by Department of Justice as well as the prosecutors by the Department of Justice in the form of OPR or others. And so it is going on at least two tracks, currently the most important one being post-trial motions in that particular case, and therefore I'm somewhat precluded from speaking more about it.**

**SEN. SPECTER:** The procedure for the FBI for senior supervision is a generalized question. That was where I led you -- I was not surprised to hear reasons you can't answer. I'm well aware of those. There's a value sometimes in the publicity on a question, even though there isn't an answer. But the question I asked you doesn't involve a case specifically, but do you have senior people in the FBI supervising conduct, especially in these so-called "big target" cases?

**MR. MUELLER:** Absolutely, we have it at the supervisory level in the field office; we have it at the special agent in charge in the field office. Back in the Criminal Division, we have the section chief and then the assistant director in charge of the Criminal Division, all of whom will be familiar with the facts and the conduct of the investigation and ultimately, in terms of the conduct, both in the course of the investigation at trial, it would be myself and my deputy, John Pistole.

There are various levels of supervision, and when we receive allegations or assertions of conduct that should be investigated of our own people, we initiate that investigation very quickly and follow through. And to the extent that it is conduct that is raised to the serious level, we first go to the inspector general to determine whether or not the inspector general should take a look at the conduct, looking an objective third party, and basically, in most cases, the inspector general has a right of first refusal.

**SEN. SPECTER:** Well, I liked the detail of that answer, especially the part where you get involved. Thank you very much.

**SEN. DIANNE FEINSTEIN (D-CA):** I'd like, if I might, to go over the order following my questions. The order is Grassley, Feingold, Kyl, Schumer, Sessions, Cardin, Klobuchar, Kaufman and Whitehouse.

Welcome, Mr. Mueller, and thank you very much again for your service. It's appreciated.

My first question is one that involves one particular case, and that's a case of a murder in Loudoun County of a highly decorated Special Forces retired colonel and his wife, a retired Army captain. They were out for a walk, a van stopped, he was beaten to death, she was badly beaten, is in a hospital. It's murder and attempted murder. Can the FBI become involved in that case?

**MR. MUELLER:** I'm familiar with the facts from reading from the newspapers. I have not followed up, but I will have to get back to you on whether or not we would have some role to play -- certainly if requested by the local authorities, yes; otherwise, we'd have to look and see whether there is a federal nexus that would warrant our participation. We would quite obviously in a case like that, to the extent --

**SEN. FEINSTEIN:** If you would look at that, this is a very unusual situation it seems to me and a horrible one, and I think that everyone is extraordinarily upset by it and need to move fast. So I'd appreciate it.

What is the FBI, Mr. Mueller, doing to prevent the supply of guns from the United States to Mexico? The Mexican ambassador and the Mexican government has told us that 90 percent of the guns going to the cartels in Mexico are coming right

from the United States of America. So my question is what is the FBI doing about it?

MR. MUELLER: I would say that we are supportive. ATF has the major role in gun investigations. When we come across, in the course of our investigations, individuals who are trafficking in weapons, we immediately bring in the ATF and will work with the ATF on joint cases to the extent that we pick up guns in the course of our investigation.

SEN. FEINSTEIN: No, is there -- my question is different. Is there a specific effort now going on to take a look at the straw purchasing that's going on and other transmitting of weapons down into Mexico?

MR. MUELLER: It is and that is being undertaken by ATF. And we are supportive of ATF --

SEN. FEINSTEIN: Do you think -- yes, but do you believe that's sufficient? You know, Senator Durbin as the chair of the subcommittee, I as the chair of the Caucus on International Narcotics Control had a hearing. The attorney general of Arizona testified. And it's really a terrible situation where these guns are just coming down in bulk into Mexico and fueling the cartels. And I wonder if just having ATF, which has always had, in my view, at least, a restricted role, is enough to stop this.

MR. MUELLER: Well, we do not -- I will say we do not have a focused effort in that particular area. Along the border, we address public corruption on our side of the border in which we have substantial numbers of cases where the drug-trafficking individuals may be paying off persons along the border. We have substantial threats with regard to kidnappings -- Americans who will travel to Mexico either because of their businesses or families who will be kidnapped. We have extortions, we have gang activity trans-border, all of which keeps us quite occupied.

We do not have a focused effort on ourselves. We are supportive in each of our field offices of ATF's efforts. But I will go back and take a look and see what more we can do in that particular area because I do not disagree at all that substantial numbers of guns are coming from the United States and it is fueling the violence south of the border. So I'd be happy to go and take a look and see if there's something more we do in that regard.

SEN. FEINSTEIN: And you can be assured I will follow up.

MR. MUELLER: Yes, I know.

SEN. FEINSTEIN: So I appreciate that very much.

In September of 2004, Chris Swecker, the assistant director of the Criminal Investigative Division at the FBI, said that mortgage fraud could cause multibillion dollar losses to financial institutions. CNN reported that he said that this fraud has the potential of being an epidemic and, quote, "We think we can prevent a problem that could have as much impact as the savings and loan crisis," end quote.

Despite this early warning, The L.A. Times reported on August 25, 2008 that the FBI has actually reduced the number of agents devoted to investigating mortgage fraud. Can you tell us exactly what the situation is, why agents are

reduced and what the position of your agency is with respect -- I can tell you, in California it is a big problem.

MR. MUELLER: Well, let me start by saying I believe Chris Swecker was prescient in terms of anticipating it.

SEN. FEINSTEIN: I believe that, yes.

MR. MUELLER: But you did not see the rise for a couple of years, the rise in mortgage fraud. What triggered or what was the catalyst to much of this is the drop in the housing markets. We actually had done a number of cases of mortgage fraud back in 2000, 2001, particularly in this area. What we found over a period of time is because the housing market was moving so rapidly ahead, that much of the fraud was -- and particularly the values were miniscule because the property market kept going up. And consequently the triggering factor to what you see today and the vast majority of the mortgage fraud cases we have were triggered by the decline in market values over a period of time.

That does not mean that we could not have put additional resources on it, but at that time we had other priorities that we were focused on and not this one. I do not believe, though -- had we put more agents, it would have been relatively few and I do not believe that that would have prevented what had occurred over the last couple of years.

SEN. FEINSTEIN: Well, I can tell you it's out there. It's a problem. I can tell you there are people that are selling mortgages that are unqualified. They misrepresent, and, you know, we've had actual cases. There actually was a special targeted team working the L.A.-Riverside-San Bernardino area. I think the FBI was involved. It made several arrests. But that really needs to be done on an ongoing basis. And my question, I guess, is, you know, what are you going to do about this?

MR. MUELLER: Well, we've had -- in the last two years we've had -- there were 800, 900 prosecutions, successful prosecutions across the country. Last summer we had a series of cases around the country which came to fruition about the same time called Malicious Mortgage, in which we had locked up a number of persons. And you will continue to see, day in and day out, other successful investigations and prosecutions putting away the persons that are responsible for this.

But, as I have indicated, the numbers of frauds have grown over the last two years and we can address just so many with the agents that we have.

SEN. FEINSTEIN: Yes, but you've reduced the number in Los Angeles. And if you would look into that, too, as the third thing and let me know why --

MR. MUELLER: Over the last two years, we have increased the numbers of agents. When he testified -- I have not looked back at the date when he testified, which I think was maybe 2004, 2005, but certainly over the last several years we have increased the number of agents that are doing mortgage fraud.

SEN. FEINSTEIN: All right, then that report was not correct, you're saying.

MR. MUELLER: It may have been correct at the time, at or about the time that he testified and shortly thereafter, but for the last couple of years we have increased the numbers.

SEN. FEINSTEIN: Well, this -- I'm referring to a report in The L.A. Times on August 25, 2008, that the number of agents have been reduced that are investigating mortgage fraud.

MR. MUELLER: As of that date, I don't think that -- I do not believe that's accurate as of that date at all.

SEN. FEINSTEIN: If you could check --

MR. MUELLER: I will check on that, yeah.

SEN. FEINSTEIN: -- because this is an area.

If you could speak quickly a little bit about -- well, I'm already over my time, so don't speak.

Thank you very, very much.

Senator Grassley, you are up next.

SEN. CHARLES E. GRASSLEY (R-IA): Thank you.

As I usually do, I want to give you an update on where we are in some of our correspondence. The committee has not received answers from your agency to all questions for the record from either September 2008 or March 2008. When I last met with Attorney General Holder, and this was in December before he was actually appointed, I provided him with a collection of my letters to the Justice Department, including the FBI, that were still considered unanswered and he pledged to review them, if confirmed. I generally ask that my letters be answered within two weeks, but on average replies were 371 days.

By the way, I gave him a folder probably "that" thick. I also gave the secretary designate for HHS a folder "that" big of letters that haven't been answered. So Justice Department isn't necessarily the worst ones. But I get tired of waiting for replies.

After this hearing was scheduled, I recently received two additional replies to letters that had been outstanding for several months and I want to say I use the word "reply" rather than the word answers, because oftentimes FBI and Justice Department staff will send a reply that doesn't actually answer a question.

So a very short answer to this question, please: Do you agree that it should not take months or years for members of this committee to get substantive answers to our legitimate oversight questions?

MR. MUELLER: Not only do I agree, but I would be -- I can tell you, in the March QFRs from 2008 we sent answers over to the Department of Justice in June. The September 2008, we sent answers over in December. I discussed with the attorneys general, the deputies attorney generals the necessity of responding so that I don't get the same questions each time that we come -- that I appear before this committee. So I am hopeful that --

SEN. GRASSLEY: I think you're saying that you've answered our questions but they're buried in the bureaucracy at Justice? Is that --

MR. MUELLER: There is a process that one goes through where the questions go to Justice for clearance as well as OMB for clearance.

SEN. GRASSLEY: So I tried to explain to the attorney general and every other Democratic nominee for Cabinet that you've got this stuff unanswered that comes from the Bush administration. Surely, wouldn't you want to clear this up so if it's answered next September the Obama administration isn't being connected with it when it's the fault of some previous administration? It seems to be like you'd want to -- not you, everybody would want to get it cleared up.

Well, I'm a little bit exasperated because of President Obama's commitment to openness and transparency in government and the policies that the new administration has put in place and I would expect that all of the executive branch agencies would be more responsive to my requests. I say that with confidence because the president made a very big issue out of being more transparent during the campaign.

Let me move on. The Government Accountability Office 2008 Performance and Accountability Report says the following, quote: "Most departments and agencies are very cooperative with our requests for information. However, our experience with some agencies, such as the Department of Justice, has proven more challenging," end of quote. Why do you think that the General Accounting (sic) Office had to single out the Justice Department as particularly uncooperative with its requests for information?

MR. MUELLER: I don't know, sir. I'd have to look into it. Whether that statement encompasses -- the Department of Justice would encompass the FBI, I'm not certain whether it is directed at the FBI. If it is, I'd want to look at that and see what the issue is, because we try to cooperate and coordinate --

SEN. GRASSLEY: Before I ask you your next question, since the chairman isn't here, I'd like to have the chairman's staff take note of something I learned from Senator Baucus on our Finance Committee and nominees before that and not getting information out of the administration at that time. He put holds on people that were under the jurisdiction of the Treasury Department; he put holds on those nominations until he got answers. And I think it's about time that not only for my own part but for the chairman's part, who often says that he doesn't get answers to his letters and inquiries, that we ought to think in terms of doing something like that in the case of nominees for Justice Department assistants and deputy secretaries.

For several years before Countrywide Financial was purchased by Bank of America, it operated a VIP loan program that gave discounts on mortgages to, among others, influential public figures and government officials. About 30 such loan recipients were publicly named in press reports. House Republicans on the Governmental Oversight (sic) Committee obtained some disturbing internal Countrywide e-mails where executives explicitly considered borrowers, quote-unquote, "politically influenced in making loan decisions." The FBI has been investigating these issues since last year. However, my office has received reliable information that investigators have not yet obtained basic documentations for the loans. The last thing that we need is slow-walking this kind of investigation.

Given that American taxpayers is now a substantial investor in Bank of America, I would hope that their cooperation with law enforcement would be even more

swift and certain. Will you look into this matter and assure this committee that all the relevant documents are being shared with law enforcement entities in them?

And then before you answer that, is there any legitimate reason why investigators would not have actually already obtained the Countrywide Financial loan files from Bank of America by now?

MR. MUELLER: I would say generally that I am briefed on the -- I for several months have been briefed about every other week on the cases related to the subprime mortgage crisis. And in those briefings, we talk about -- very generally, not necessarily specifically -- about any issues that might come up that would delay investigations and we address those. We're anxious to make certain that we press ahead as fast as we can in all investigations.

Yes, I would be happy to get back to you with an answer as to the -- whether, without talking about a specific investigation or specific set of documents, whether we have met any hurdles in terms of pursuing those investigations. I have not heard of any such, but will -- I'll make the inquiry and get back to you on that.

SEN. GRASSLEY: Thank you very much.

Thank you, Madame Chair.

SEN. FEINSTEIN: Thank you, Senator Grassley.

Senator Feingold?

SEN. RUSSELL D. FEINGOLD (D-WI): I thank the chair.

And it's good to see you again, Mr. Director.

Last time you were before this committee, we spoke at some length about the draft Attorney General Guidelines for Domestic Investigations that the department was rushing to finalize before the last administration left office. And I went back and looked at the transcript of our conversation and I just want to ask you a few things about that.

First, you said at that time despite my complaints about the procedures by which we were being shown the draft that you were incorporating suggestions that had been made by members of Congress and by outside experts; yet the final guidelines that went into effect in December, in my view, were not appreciably different than the draft that we saw prior to your appearance in September.

As you know, the main concern that many of us had about the new guidelines when we saw the draft and we expressed them to you and the former attorney general was that they permit FBI agents to initiate an assessment without any suspicion of wrongdoing whatsoever. And those assessments can include physical surveillance, recruiting sources and pretext interviews. You chose not to revise that basic approach.

Why do you think it's necessary to give agents such broad authority and what protections are in place to prevent that authority from being abused?

MR. MUELLER: We have had that authority on the criminal side of the house for years, as I think we've discussed previously. We have not had it on the national

security side. And it's not the authority, it's the approval under the guidelines of the attorney general. We have the authority to do it. It's a question of whether it fell within the guidelines by the attorney general.

When you are looking at trying to prevent an attack on the United States, that is far different than doing an investigation after an attack occurs. And you have to take tidbits of information that may relate to a particular individual, a grouping of individuals, to determine whether or not those individuals pose a threat.

I am wont to say if you go back to September 11th and you look at the memorandum that was produced by Ken Williams, who was an agent out of Phoenix, about individuals who were going to flight training who might present a risk to the American public, we were excoriated for not following up on that memorandum. You ask, what should we have done? Should we have then gone to flight schools and seen whether there was a threat there? The assessment process allows us to address threats such as that when there is some information that there may be a threat that exists. It requires a proper purpose, not necessarily the predication on a particular individual. And that's an example where, I think, if we had pursued it under the assessment capabilities, that perhaps we would have come up with something -- which is why I think it's important that we maintain that ability.

SEN. FEINGOLD: We could debate in that example whether or not there was a suspicion of wrongdoing, but I don't want to spend all my time on that. So let me ask you about just what protections are in place to prevent abuse.

Mr. Director, you've had to call me and tell me that there's going to be a disturbing report about other authorities that were given to the FBI and say, you know, I'm sorry this happened, because sometimes authorities are abused. So what would you say about that?

MR. MUELLER: Well, in sensitive areas it requires -- in order to open an assessment, you have to go through the counsel in the particular office and have the approval of the special agent in charge. There are certain other categories that are carved out where they're particularly sensitive when it relates to religious institutions or educational institutions and the like and you want to undertake some sort of assessment. There is a scale of approvals that are required to look into the particular incidence to assure that it is not just an agent who is, on his or her own, undertaking that activity without any scrutiny and approval process in place.

So we've carved out areas that are particularly sensitive for enhanced scrutiny and approvals. We are working with the Department of Justice to go into our field offices periodically and do a scrub and look at the approval process to determine whether or not the i's have been dotted and the t's crossed so that we don't have another national security letter issue --

SEN. FEINGOLD: All right. Let me move on to another --

MR. MUELLER: -- amongst -- those are two of the things that we're doing.

SEN. FEINGOLD: Thank you, and we'll pursue this more in the future. I'll stay interested in it.

Attorney General Holder said at his confirmation hearing that he would revisit the guidelines once there had been a chance to see how they are working. What's

your estimate of the number of assessments conducted using these new authorities, and how many of those assessments resulted in preliminary or full investigations?

MR. MUELLER: I'd have to look at those and get back to you on that.

SEN. FEINGOLD: You'll get back to me on that?

All right, well, let's turn to something -- we've discussed before the need for the FBI to gain the trust of the American Muslim Community to assist in the effort to stop terrorism. And I was disappointed to learn of a recent statement from the American Muslim Task Force on Civil Rights and Elections signed by 10 leading U.S. Muslim organizations indicating that they are considering suspending their work with the FBI. According to a news report, quote, "The groups claim the FBI has sent undercover agents posing as worshippers into mosques, pressured Muslims to become informants, labeled civil rights advocates as criminals and spread misinformation," unquote.

Can you determine and report to this committee whether mosques have been entered by FBI agents or informants without disclosing their identities under the authority of the attorney general guidelines and, if so, how many?

MR. MUELLER: Well, I -- there are a number of questions in there. I would hesitate to provide information on ongoing investigations, quite obviously. I will say that we do not focus on institutions, we focus on individuals. And I will say generally if there is evidence or information as to individual or individuals undertaking illegal activities in religious institutions, with appropriate high-level approval, we would undertake investigative activities, regardless of the religion.

But it would -- we would single that out as an exceptionally sensitive circumstance that would require much vetting before that occurred.

SEN. FEINGOLD: So in theory it could include entering a mosque under a different identity?

MR. MUELLER: I stick with my answer.

SEN. FEINGOLD: All right. Let me ask you one more thing before my time's up. Do you think --

MR. MUELLER: Can I say one other thing, though?

SEN. FEINGOLD: Yeah --

MR. MUELLER: I want to allude to issues with regard to the Muslim community. Let me say that the Muslim community has been tremendously supportive of the bureau since September 11th. They have been supportive. The outreach and the relationships have been exceptional.

SEN. FEINGOLD: That's exactly why I'm -- (inaudible) -- about this problem.

MR. MUELLER: But there are instances where we will have an issue with someone or an individual or individuals in the Muslim community that need to be resolved.

SEN. FEINGOLD: Let me ask one more question before --

MR. MUELLER: But the vast majority --

SEN. FEINGOLD: -- my time's up on this point, Mr. Director.

MR. MUELLER: Okay.

SEN. FEINGOLD: Do you think that the new attorney general guidelines are helping or hurting the FBI's relationship with the U.S. Muslim community? In light of this task force statement, how do you plan to improve that relationship?

MR. MUELLER: Well, I periodically meet with the leaders of the Muslim community. I believe I'll be doing it shortly in future. Once again, each of our offices meets weekly or monthly with members of the Muslim community. My expectation is that our relationships are as good now as before the guidelines, generally across the country.

There may be an issue here or an issue there with particular institution or individuals, but I do not believe that it undercuts our relationship with the Muslim community around the country.

The Muslim community is -- understands that the worse thing could happen is that there be another terrorist attack on the United States and has been tremendously supportive and worked very closely with us in a number of instances around the country. So I don't believe that either the guidelines or the other issues adversely impact that relationship.

SEN. FEINGOLD: Thank you, Mr. --

SEN. FEINSTEIN: Thank you, Senator Feingold.

Senator Kyl, you're next up.

SEN. JON KYL (R-AZ): Thank you, Madame Chairman.

Director Mueller, thank you for being here. I want to follow up on questions my colleague from Wisconsin just asked because obviously you appreciate how important it is to distinguish between the Muslim community, which you just described, and groups which support terrorists and obviously, therefore, are the subject, at least potentially, of investigative activities.

On February 23rd of this year, Senators Schumer and Coburn and I wrote you a letter commending your decision to sever ties with the Council on American Islamic Relations, CAIR, and asking some questions about the scope of the new policy. I think your staff has been advised that I would ask you why we haven't received a response to that letter yet.

We thought that the decision that was made was prudent and long overdue, especially in light of the fact that the government itself introduced evidence that demonstrated the links between CAIR and Hamas which led the government to label CAIR and specific members of CAIR as unindicted co-conspirators in the Holy Land terror finance trial. In fact, agents of the bureau testified and affirmed the evidence of these links.

My understanding is that Representative Wolf has also written a letter somewhat similar to ours and made various inquiries. Can you tell us why we don't have a response yet and when we might be able to expect a response?

MR. MUELLER: I will go back and see where that is and try to get that out swiftly to you.

SEN. KYL: All right. We'd appreciate it very much.

Just let me summarize a couple other questions. Perhaps these are questions you can answer right now. Is it in fact correct that the bureau has cut off its ties with CAIR?

MR. MUELLER: I prefer not to discuss any particular organization in the Muslim community. I can tell you that where we have an issue with a particular organization we'll take what steps are necessary to resolve that issue.

SEN. KYL: Well, whatever the policy is, which I gather you will describe, is that a bureau-wide policy? Does it apply to the regional offices and district offices and so on -- field offices?

MR. MUELLER: We try to adapt when we have situations where we have an issue with one or more individuals as opposed to an institution or an institution writ large to identify with some specificity those particular individuals or issues that need to be addressed.

We will generally have individuals who may have some -- may be leaders in the community whom we have no reason to believe whatsoever are involved in terrorism but may be affiliated with, in some way, shape or form, with an institution about which there is some concern and which we have to work out a separate arrangement.

It is -- we have to be sensitive to both the individuals as well as the organization and try to resolve the issues that may prevent us from working with a particular organization.

SEN. KYL: Even though you've said you prefer not to talk about specific organizations in this hearing, I guess the question is -- still remains whether the information that we received that this particular organization was no longer one with which you were having a direct relationship. Is that information incorrect?

MR. MUELLER: I think what I prefer to do, if I could, is provide that letter to you where I can be more precise --

SEN. KYL: All right.

MR. MUELLER: -- in terms of --

SEN. KYL: That's fair enough.

MR. MUELLER: -- and have some opportunity to review exactly, specifically what I say.

SEN. KYL: All right. I appreciate that. Let me maybe carry it a little bit further into an easier area for you.

The Holy Land case also dealt with the Muslim Brotherhood, and I just wanted to quote from one government exhibit, Exhibit number 3-85 from that trial. Quote -- and this is the -- it's also known as Ikhwan. Quote: "The Ikhwan must understand that their role in America is a kind of grand jihad in eliminating and destroying the Western civilization from within and sabotaging its miserable house by their hands and the hands of the believers so that it is eliminated and God's religion is made victorious," end of quote.

Are members of the Muslim Brotherhood or the organization itself active at all in the United States, to your knowledge?

MR. MUELLER: I would say generally we have investigations that would address that issue, yes.

SEN. KYL: And do you have a policy about meeting with that organization or its members?

MR. MUELLER: I would not say we have a written policy, but I can tell you that before we -- that in the course of our liaison activities we certainly search our indices to make certain that when we meet with individuals that they're not under investigation and that we could appropriately maintain liaison relationships with them.

SEN. KYL: There's also been a fairly public case -- in fact, Senator Lieberman held a hearing in the Homeland Security Committee concerning a problem in Minnesota and I suspect you're familiar with that.

MR. MUELLER: Yes.

SEN. KYL: This is the so-called Al-Shahab (sic/Al-Shabaab) group and some Somali youth who have left that community and in fact at least one who is, I gather, believed to be involved in a suicide bombing.

Can you tell us anything about your work in that area?

MR. MUELLER: I think it has been to a certain extent publicized that individuals from the Somali community in Minneapolis have traveled to Somalia to participate with Al-Shabaab and that there are ongoing investigations into that issue. Again, we're working with the Somali community in Minneapolis and other cities around the United States to combat that radicalization that has occurred.

SEN. KYL: So would you -- so then it is correct to describe a radicalization process that's occurring at least in one community in the United States that has resulted in one of these individuals going abroad and at least allegedly committing an act of terrorism? Is that -- would that be accurate?

MR. MUELLER: That's accurate.

SEN. KYL: Can you quantify your belief as to how widespread this might be in the United States? And by that I mean --

MR. MUELLER: Let me just --

SEN. KYL: -- the attempts to radicalize young --

MR. MUELLER: Radicalization comes in a number of forms -- or fora, perhaps I should say -- the Internet being one of the principal ones now. It also can be individuals. It can be members of a community.

I do believe that the -- what we have seen in Minneapolis is not widespread throughout the United States and that it is, I believe, a matter of public record that one individual who was so radicalized became a suicide bomber in northern Somaliland (sic) back in -- or in Somalia back in October of 2008. We have not seen that occurrence again, but we do not want to see it either, and the parents of the individuals do not want to see it either.

And so, again, we're working with the community to make certain that any pockets of radicalization are identified and addressed, whether it be in Minneapolis or around the country.

SEN. KYL: I appreciate that and would just note, if we could get a response to that letter I think it would be very helpful. I'm not sure of the origin of it, but for some reason a lot of my constituents over the last several weeks have approached me and asked me questions. Somebody, I think, is -- must be spreading the word that there are potentially a lot of these organizations around the United States and a lot of people being radicalized, and it's a matter of great concern.

And I've tried to suggest that, at least from my knowledge, it is not widespread, that the FBI obviously would have a handle on it, but to the extent that you can get the information to us so we can assure our constituents of what is, in fact, going on, I think that would be very helpful.

MR. MUELLER: Yes, sir.

SEN. KYL: Thank you.

Thank you, Mr. Chairman.

SEN. LEAHY

Going by the list -- first, I want to thank Senator Feinstein for filling in while we were trying to do appropriations and this.

And Senator Cardin, please go ahead, sir.

SEN. BENJAMIN L. CARDIN (D-MD): Thank you, Mr. Chairman.

And let me thank Director Mueller for your service, and thank you for being here today.

I want to talk about the Patriot Act, if we might. There are three major provisions that will sunset during 2009 that will need to be taken up by Congress, and this committee will have a significant role in regards to reauthorization, perhaps modifications of the roving wiretap, the business records, and the lone wolf provisions.

I would hope you could share with us the importance of these provisions, whether you believe that there will be efforts made to extend these sunsets and whether you will be recommending modifications in these laws and what process you are intending to go through to work with Congress as we take up these issues, which in the past have been somewhat controversial?

MR. MUELLER: My hope, quite obviously, is that they will be less controversial as they come up this time because we have seen their use and have some track record with it.

Starting with the business records provision, 215, we have utilized that 223 times between 2004 and 2007. We don't yet have the records or the total for 2008, but it has been exceptionally helpful and useful in our national security investigations.

With regard to the roving wiretap provision that is also sunseting, we've used that 147 times and that also has eliminated a substantial amount of paperwork and, I would say, confusion in terms of the ability for us to maintain surveillance -- electronic surveillance on an individual where we can utilize that roving wiretap provision.

As to the lone wolf provision, while we have not -- there has not been a lone wolf, so to speak, indicted, that provision is tremendously helpful where we have a difficulty in showing a tie between a particular individual who -- about whom we have information that might be supporting terrorism and be a terrorist, but we have difficulty in identifying the -- foreign power for which he is an agent, whether it be a terrorist group or otherwise -- what we call the Moussaoui problem, where the issue was the inability for us to tie Moussaoui to a particular terrorist group.

So that also is a provision that has been, I believe, beneficial and should be re-enacted. I have not yet had an opportunity with the new administration to have a discussion about the position. I know we'll be working with the Department of Justice on these three provisions, but my hope is that the department will support the re-enactment of all three and that we can sit and work with Congress to explain, if necessary, more fully how important they are to our work.

SEN. CARDIN: Well, I very much appreciate your response. Having the total numbers of use is useful and very helpful.

In regards to the business records, there's been some press that has been less than favorable on some of the applications. This may not be the right forum into more detail, but I do think it's important that the Judiciary Committee in its oversight function and the Intelligence Committee in its oversight function examine more specifics for two reasons.

One, I think most of us believe these tools are extremely important and we want to make sure that you have the tools that you need. We want to make sure that there's the appropriate oversight, and we normally get more attention as we get closer to the deadlines for extending sunsets than other times during the year and we want to make sure we take advantage of this opportunity to get a better understanding so we are on the same page as to what tools are needed.

And the third point is there may need to be modifications, not necessarily restrictions. There may need to be fine-tuning of these provisions to make sure that they're more effective and used as intended by Congress.

So I would just encourage you to work with the chairman of our committee, the chairman of the Intelligence Committee and to -- so that we can feel more comfortable working with the administration.

I know it's early in the new administration, but this issue's going to come up quicker than we think, and the one thing I don't want to see happen is that we

have a deadline without an opportunity to be fully comfortable with a bill that would extend the provisions in the Patriot Act.

I would like to ask one more question on a different subject and this deals with the security risk assessments for all individuals with access to select agents and toxins.

As you know, I represent Maryland, home of Fort Detrick, where the major problem with Dr. Ivans took place.

And there was a lot of discussion about looking at the procedures used for security clearances and revoking security clearances.

And could you update us as to where we are as far as a comfort level, knowing that those people who have access to toxics are in fact being cleared appropriately for the sensitivity of their positions?

MR. MUELLER: I know in the wake of the attacks in -- October -- actually September-October of 2001 that there were upgrades made, but upon the identification of Dr. Ivans as being the principal person involved, that a wholesale review was ordered by the Department of Defense, and I'm not certain where that review is. We'd have to get back to you on that.

SEN. CARDIN: And I appreciate that and that's fine. I do believe you have the responsibility on some of the security clearance issue, so it does involve, if I'm correct on it.

MR. MUELLER: On some of it, although my -- I'd have to check on it, but I think most of the security clearance work is done by DOD itself as opposed to us, but I will have to check on that.

SEN. CARDIN: I appreciate it.

And Mr. Chairman, I would just stress, I would hope that we will have the opportunity to return to the issues of the Patriot Act far in advance of the deadline for the end of this year where we have to act.

Thank you, Mr. Chairman.

SEN. LEAHY

And I can assure the senator we will because the sunset provisions (that ?) were put in there basically forced not only the Congress but the administration to look at the parts that are expiring and make sure if we renew them that we do it in a justifiable fashion. So I assure the senator we will.

Do you have other -- Senator Sessions.

SEN. JEFF SESSIONS (R-AL): Thank you, Mr. Chairman. And I think the Patriot Act was carefully constructed. We had some very vigorous and -- hearings and I believe all the provisions in it are consistent.

Do you not agree, Mr. Mueller, with traditional law enforcement methods, many of which have been used in other circumstances and even in terrorism, and that care was taken not to violate any of the great constitutional protections that we cherish in this country?

MR. MUELLER: I do, but I'm, not surprisingly, a strong supporter of the Patriot Act, particularly the areas where it broke down the walls between ourselves and the intelligence community.

Senator Specter alludes to the changes since September 11th. One of the substantial changes since September 11th has been quite obviously our sharing of information with the intelligence community and vice-versa, and that was attributable to the Patriot Act.

These three provisions that are to sunset are important provisions that we hope will again be re-enacted when it comes up for a vote.

SEN. SESSIONS: Well, you will need to focus on making sure that you report that correctly and that they're used correctly. And oversight is always healthy in this country.

Director Mueller, thank you for your leadership. I think the American people can go to bed at night knowing that their director of the FBI is working as many hours as he can put in a day -- and your team is -- to focus on making this a safer, more lawful country. I'm proud of what you do.

But oversight's good. Even for the FBI, wouldn't you agree?

MR. MUELLER: I agree.

SEN. SESSIONS: You believed that when you weren't in the FBI, I'm sure.

MR. MUELLER: I agree.

SEN. SESSIONS: All right.

MR. MUELLER: Occasionally it's tough, but I agree. (Laughs.)

SEN. SESSIONS: The Wall Street Journal reported that the attorney general is considering releasing some Guantanamo subjects. The Washington Post today has an article that the outcry is growing in Alexandria, Virginia over a prospect no one seems to like: terrorist suspects in suburbs. The historic, vibrant community less than 10 miles from the White House is a family friendly zone, they say.

But it looks like now we might be having criminal trials in the Alexandria federal courthouse and the quote from the mayor was: "We would be absolutely opposed to relocating Guantanamo prisoners to Alexandria. We would do everything in our power to lobby the president, the governor, the Congress and everything else to stop it."

But the question is if these individuals are released or tried, to what extent is the FBI, by necessity, forced to direct resources to try to make sure that they don't commit terrorist acts inside the United States? Does that put an additional burden on you and your agency? Don't you have responsibilities to make sure that someone who's been identified -- at least, at one point -- as associated with terrorism is not likely to get loose here?

MR. MUELLER: I do believe we would have the responsibility to evaluate the risk and minimize any risk for individuals, whether it be Guantanamo or individuals coming to the country, about whom we have information that they may have been at one point in time associated with terrorism.

SEN. SESSIONS: So that's additional burden on you.

MR. MUELLER: We would --

SEN. SESSIONS: Now, I know a lot of my friends -- people watch the television and they see these interesting shows. But as a practical matter, you're not able to put individual FBI agents on the hundreds of people here, if they're moving about this country, 24 hours a day surveilling them. And those things are not realistically possible in the world we live in, are they?

MR. MUELLER: Well, no. We have to prioritize our surveillances, whether it be electronic surveillance or physical surveillance, and we do that on a daily basis. And to the extent that there are individuals that are coming into this country that have or do present some threat, we would prioritize and utilize what resources we thought were necessary to make certain that individual or individuals did not constitute a threat to the American public.

SEN. SESSIONS: Well, we have the Uighurs who are terrorists, apparently targeting China, a nation that we want to live in harmony and peace with. And they apparently, according to these articles, are one of the groups most likely to be released. So I think it's a matter of great importance and there's nothing -- there's no free lunch here.

We place ourselves at greater risk if more and more of these people end up being released because we didn't have sufficient evidence in a criminal trial when in historically, in my opinion, these individuals were -- are unlawful combatants and perhaps were arrested on the battlefield and may not -- we may not have the kind of normal evidence you would have. Wouldn't you agree to try a case in a federal district court?

MR. MUELLER: There are occasions where we have individuals about whom we have information that would either be inadmissible in federal court or, because it would disclose sources and methods, one would not want to put that information into a federal court. There are instances where that is an issue.

SEN. SESSIONS: Mr. Mueller, you and I talked previously, and Senator Feinstein raised some of these issues with you. I would point out the chart that I think I shared with you that the administrative office of courts shows prosecutions for bank embezzlement, financial institutional embezzlement, financial institution fraud being tried in the federal courts to be declining and that these are primarily, traditionally FBI-investigated cases.

Are you looking at those numbers? And what do we need to do to be able to increase those prosecutions, and particularly in this time where we're seeing reports of more fraud occurring in our financial markets?

MR. MUELLER: In the wake of September 11th, as I've indicated in remarks earlier, we've moved 2,000 agents from the criminal side to the national security side to address counterterrorism. Many of those agents have been working -- a vast majority -- not the vast, but a majority of them have been working on smaller drug cases.

A substantial number, though, have been working on smaller white-collar criminal cases that we could no longer afford to do -- the tellers who would be

embezzling from a bank, for instance, where the losses were relatively small. We had thousands of those cases that we could no longer do.

We have had to prioritize and we had to prioritize earlier, five, six years ago, when we had Enron, HealthSouth, WorldCom, a number of large financial fraud cases where we needed to allocate appropriate personnel to address those cases. And so I do not believe you'll see the same numbers in federal court because there are so many fraud cases out there -- mortgage fraud cases, institutional fraud cases -- of a size that dwarf some of the smaller ones that we traditionally have done. So the numbers will not be there.

I do believe that the impact and import of the investigations and prosecutions will be exceptionally substantial compared to some of the work that we'd done five or 10 years ago.

**SEN. SESSIONS: I think that's important. I also like the idea that you have of fast-tracking some of these prosecutions. You can take three years with one if you want to sometimes, and sometimes in six months a case can be tried and a person sent to jail where they need to be.**

**And those are things a good leader like you knows how to do and I hope the Department of Justice cooperates with you. And I'd like to see more of these prosecutions. We've always heard every time this has been raised, well, we're prosecuting bigger cases. For the last 30 years that's what happens. When the numbers go down in an office you say, well, we're prosecuting bigger cases. It takes more time.**

I'm not really sold on your argument there.

**MR. MUELLER: I ask you to look at the cases. I ask you to look at an Enron or a HealthSouth or a WorldCom and the impact on it. And you, as a prosecutor, would know the efforts that goes into those cases.**

**Look at the public corruptions cases, the efforts that go into the public corruption cases in terms of the type of investigative activity. And if you look at our record over a number of years -- the last number of years, particularly since September 11th, in terms of addressing public corruption, we have doubled if not tripled the number of prosecutions in that arena.**

**SEN. SESSIONS: There's always been big cases.**

**I thank the chair.**

SEN. LEAHY

We won't get into war stories. (Laughter.) All the former prosecutors are out here. We've (sure had ?) big cases or smaller cases.

Yield to Senator Schumer.

SEN. CHARLES E. SCHUMER (D-NY): Thank you.

I am one of the -- I may be the only non-former prosecutor on this podium right now. I don't know if Ted is a former prosecutor, but maybe he joins me as the lonely group of non-former prosecutors.

Mr. Mueller, thank you, again, for being here and for your service to our country. My first two questions relate to personnel and amounts of personnel.

First, at the Mexican border: Obviously, these drug cartels are a big problem. Obviously some of the responsibility is DEA, some of the responsibility with the guns is ATF, but the FBI has responsibility everywhere.

So let me ask you this -- two questions: Do you have enough agents to do the job at the border given the increase in the amount of crime that we've read that's shocked Americans?

MR. MUELLER: Our focus on the Southwest border has been in a number of areas: first of all, public corruption, the moneys that are generated through narcotics trafficking to various U.S. officers. We have a number of those cases.

We have kidnappings that have grown, particularly in the San Diego office as well as the El Paso office, with Juarez across the river. We have gang activity that is north of the border that is in some ways aligned with the cartels south of the border.

We could always use additional resources. All of us could use additional resources. And our hope is that if Congress sees fit to give us resources in that regard that you do it in conjunction with state and local law enforcement.

SEN. SCHUMER: Sure.

MR. MUELLER: I believe we work much better if we work shoulder to shoulder with the state and local law enforcement.

SEN. SCHUMER: Well, look, I think -- just my perusal -- you do need more resources, and I think you'll find cooperation on both sides of the aisle to get them. And it's something I will be working for in the new budget.

What about the creation of an entirely new unit devoted specifically to the investigation and dismantling of violent narcotic cartels at the border? Obviously, again, this presents new challenges -- it's international, two nations -- but some kind of unit that just focuses on this.

I have found when the FBI has these task forces, and other units, they really get the job done, whereas if one piece is in this division, one piece is in that division, one piece -- it doesn't become as effective. Would you consider setting up a separate unit just focused with the right personnel from the right departments to focus on the cartels that are running across our border and doing harm on both sides of it?

MR. MUELLER: Let me speak to two vehicles already that are there.

OCDETF program, the Organized Crime Drug Enforcement Task Force program, in which we are substantial participant, still is a -- I think a vehicle that for the last 10, 15 years has been looking at the cartels, principally led by DEA. But DEA's reason for being is to address those cartels. And in the vehicle of the OCDETF program, I believe we play an important, a substantial role.

Secondly, what we have done is -- in my trips to Mexico and along the border, I do believe that more could be done in consolidating the intelligence. And our

intelligence would go for a legal attache office in Mexico to headquarters and then to our borders.

SEN. SCHUMER: Right.

MR. MUELLER: So we are establishing a focused unit to bring together the intelligence down in El Paso, next to the EPIC -- which is the El Paso Intelligence Center.

SEN. SCHUMER: You know, this is a new problem. Maybe it's an old problem, but a problem that's gotten a lot worse. I would urge some kinds of focused task forces, not just participation in the DEA, because it's a much broader problem than just drugs. Drugs is both a cause and effect.

Let me go to financial problems and financial crimes. What I have found -- I've heard from my local DAs, particularly my DA in Brooklyn, lots of different kinds of mortgage fraud, and not just on an individual basis but among different groups.

When he goes to the U.S. attorneys there, they say, "Well, we're busy; we're busy with terrorism" -- this is the Eastern District or the Southern District -- "we're busy with, you know, the airports and drugs and all of that; we don't have enough personnel to look into these kinds of things," even though federal law might be more appropriate than state law in some of these.

And then we have, of course, the kinds of financial crimes -- the larger financial crimes that were talked about. Senator Leahy, Senator Grassley, myself have put in legislation to increase the number of agents, as well as the number of U.S. attorneys to look into this. And I think that legislation, Mr. Chairman, will be coming to the floor in a few weeks.

SEN. LEAHY  
I understand right after the recess.

SEN. SCHUMER: Yeah.

But we're just adding -- I think it is 75 agents and number of prosecutors. I don't recall the number. Do you have enough -- given that the priorities are shifting, as they always are -- that's your job -- do you have enough personnel to go after both the larger and smaller financial frauds which seem to have become almost endemic over the last decade? Do you need more personnel? Is the proposal that we -- Senator Leahy, myself and others -- have sponsored enough?

Could you give us some degree of that, because again, I'm hearing from my local law enforcement that when they go to the feds and say you should look at this, they say, "We'd love to but we can't, we don't have enough personnel."

MR. MUELLER: I would distinguish between the U.S. attorneys office and the bureau.

SEN. SCHUMER: Yeah, but they're saying the personnel is not just the prosecutors but the agents.

MR. MUELLER: We have refocused a number of agents -- we've increased the number of agents that are addressing mortgage fraud and larger financial fraud related to the subprime mortgage market. We have received -- I think we

received 25 agents in the 2009 budget, and my hope is that, thanks to your efforts, we'll receive additional agents.

I will tell you that when we went through the savings and loan crisis back in --

SEN. SCHUMER: Yes.

MR. MUELLER: -- it was probably 1992, 1991 --

SEN. SCHUMER: You were very successful. I helped put that together.

MR. MUELLER: We were. And we had approximately 1,000 agents working, as opposed to maybe 500, 600 that, with the best effort --

SEN. SCHUMER: So let me ask you: If we gave you more, you could -- in the area of financial fraud, you could certainly use them.

MR. MUELLER: Yes. And what we have had to do is prioritize, utilizing a number of mechanisms to identify the more egregious offenders and focus on those offenders and couple that with a fast-track prosecution methodology that would push persons through the system.

SEN. SCHUMER: Right. One final question: Given the fact that we only have an acting DEA, an acting ATF, you know, we don't have the people in place, would you consider a trip to the Mexican border, provided it's safe, to just figure out what's going on and visit it yourself?

MR. MUELLER: I have been there. I've been there. I've been in Mexico. I was there maybe two months ago. In the last year, I've been at least twice to the border and I plan to be down there in May.

SEN. SCHUMER: Good.

MR. MUELLER: The last time I was there I recognized that we could do a better job consolidating intelligence. And out of that visit comes the consolidated mechanism that we're putting in El Paso.

SEN. SCHUMER: Great.

Thank you, Mr. Chairman.

SEN. LEAHY

Thank you very much, Senator Schumer.

Normally, Senator Klobuchar would be next, but I understand you've -- Senator Kaufman -- yield to Senator Kaufman.

Senator Kaufman, please.

SEN. EDWARD KAUFMAN (D-DE): Thank you, Senator Klobuchar. I really appreciate that.

And thank you, Mr. Chairman, for holding these hearings. I just think these oversight hearings are so incredibly important because it allows us to talk on a regular basis so we don't get too far off track on where we're going. So I think that's great.

And, Director Mueller, it's great to see you again. It's great you're here, and it seems like you were just appointed.

One of the things that, clearly, we're concerned about is this -- is the financial fraud. And we have a bill -- a group of us have a bill, S. 386, to do that. And I know you've talked about it before.

One of the things -- could you comment on -- you talked about how -- what you're doing now. Can you comment on the urgency of getting these FBI agents to help you deal with the financial fraud problems?

MR. MUELLER: Well, financial fraud -- you know, your basic mortgage fraud case, maybe three or four individuals are in a conspiracy: the appraiser, the lender and two or three others. It's a lot more complicated than a -- your usual narcotics case or bank robbery and the like. And it takes not only the expertise of the agent but forensic accountants to put the matter together and to develop the evidence. And you cannot get bogged down in the paperwork.

There is a mentality in the past of putting persons in a room full of thousands of pieces of paper and going through and adding up all of the counts so that you get the maximum sentence. We cannot afford to do that. And they're complicated and it takes not just the agents, but it takes the forensic accountants, it takes the intelligence analysts to do the job.

And when you talk about more than 40 institutional cases that we have in which there are allegations that have been raised, large financial institutions, the extent of the information that needs to be reviewed -- most of it now digitally maintained not only by ourselves, but the SEC -- and the coordination with the SEC and ourselves and the prosecutors, it becomes a substantial issue.

And so it's not just the agents, but it's also the team that you need to put into place to address these, understanding that we have to identify the most egregious actors, move quickly to indict them and then move on to the next one.

SEN. KAUFMAN: And also, I mean, this is unusual in that it isn't just the mortgage brokers that are doing this. You can go all the way up the chain to the people that securitized the mortgage, the rating services maybe that have conflict of interest in dealing with rating at the same time they were doing business. Then you get to the bankers. Then you get to the brokers.

So, I mean, I assume we're going to be looking at all these different players, in terms of possible financial fraud.

MR. MUELLER: We are.

SEN. KAUFMAN: Good.

MR. MUELLER: I think two of the -- no. And some of our initial indictments over the last year have been exactly in that arena.

SEN. KAUFMAN: Yeah, there's been an explosion of this. That's why I'm concerned about the urgency of this thing that as time passes, obviously you're talking about complex litigation to start with, now you're talking about complex litigation that's two months, four months, six months later. And that's why I think it's urgent that we get you the FBI agents. Is that --

MR. MUELLER: I agree.

SEN. KAUFMAN: Over the past decades you've done an amazing job with organized crime, in fact, really bringing it under control. Do you have any thought about using some of those resources to go after the drug gangs and the drug organizations?

MR. MUELLER: Well, we have, but we cannot keep our -- not take our eye off of organized crime. It is expanded dramatically since the days in which we were focused principally on La Cosa Nostra. Now you have Bulgarian organized crime, Armenian organized crime, Asian organized crime, Russian organized crime, and Armenian, if I haven't mentioned --

SEN. KAUFMAN: Yes, you did.

MR. MUELLER: -- Armenian organized crime in pockets around the country that need to be addressed.

But we also recognize that what has contributed substantially to the violence on the streets are gangs -- MS-13, 18th Street gangs, Latin Kings -- and what you have seen in terms of our organized crime program is a recognition that these violence-prone gangs are as important if not more important than the traditional families that we have seen. So there has been some shifting of resources to address this organized criminal or these new organized criminal structures and we continue to look at it.

SEN. KAUFMAN: Great. Perfect.

Turning to violent crime, you know, community policing, community prosecution, intelligence-based policing, I mean, how's the FBI working to help local law enforcement, local prosecutors to deal with the violent crime problem? I know you're doing the job. I just would like to know kind of what you're doing.

MR. MUELLER: We have approximately 200 task forces around the country. My own view is that we learn a tremendous amount by sitting shoulder to shoulder with state and local law enforcement.

When I handled homicides here in the U.S. Attorneys Office, I worked with the Metropolitan Police Department, homicide detectives who were some of the best law enforcement agents that I've ever had the opportunity to work with. And I think we make a much greater impact when we work on task forces together with state and local law enforcement. That's the way we choose to address it.

I also am not unaware that when we're not doing a number of drug cases we lose contact with the street, and we need to maintain as an organization not only the contact and liaison -- or the contact with the street so we know what's going on with the street but liaison with those who are on the street day in and day out.

And so that is the way we are seeking to address it. We have Safe Trails Task Forces that combine state and local law enforcement for addressing violent crime in Indian Country as well.

So through these various task forces, whether it be in these areas such as Indian Country or in the communities around the country, we try to address it through the task force mechanism.

SEN. KAUFMAN: Great. I think that's really, as you say, that's the key, community policing, community prosecution, and getting back into the community. And the FBI obviously can play an incredible role in that, and that's what you're doing.

Thank you, Mr. Chairman.

SEN. LEAHY

Thank you very much, Senator Kaufman.

And Senator Klobuchar?

SEN. AMY KLOBUCHAR (D-MN): Thank you very much, Mr. Chairman.

Thank you, Director, for being here, and I enjoyed our meeting this week. I know that Senator Kyl asked you about the investigation going on in Minnesota, so I will -- I appreciate you talking with me about this this week.

I was just listening to all of this and thinking about the increase in the mortgage investigations that you are engaging in and the increase in some of the white-collar crime because of the state of the economy, seeing very strongly why we're doing this bill.

But the other area that you and I had talked about but I think is worth mentioning is just the large portion of the economic recovery package -- and I know you mentioned this to me -- that's going to state and local governments, and just the potential for corruption, embezzlement. Obviously, we want to have that not happen.

And so could you talk a little bit about how you think we could best prevent that from happening in the first place and then how the FBI is going to prepare to investigate it when there's all these other things going on?

MR. MUELLER: We have had lengthy discussions with the inspector generals that have been put into place to address the flow of fundings that will be coming through the federal government.

In order to -- I've tried to put into place the record-keeping systems that will enable us to quickly identify with algorithms areas where monies are not going where they should go and identifying the various players in a complicated commercial transaction who may be the persons that we need to look to down the road.

We find with the mortgage fraud crisis every county's a little bit different in terms of maintenance of the records; often it is difficult for us to quickly identify the participants in a particular transaction and identify other transactions that perhaps guilty individual has been involved in.

And so putting in place the information early on as these funds are going to be parceled out to various states and counties and municipalities is a part of it. Working closely with the IG to identify mechanisms or telltale signs or trip wires that enable us to quickly focus on where monies are going astray is what we're trying to do now as we embark on this era of substantial monies being put out by the federal government.

SEN. KLOBUCHAR: And another challenge you mentioned was just that a lot of people that were convicted in the '90s, some of them very violent offenders, their scheduled release dates are coming up now or in the next few years.

And what steps are you taking to prepare for that? How can we help with that?

MR. MUELLER: I have concern that a number of people who were locked up by efforts of prosecutors and law enforcement in the '90s and many violent offenders, which contributed substantially to the reduction in violent crime over the years --

SEN. KLOBUCHAR: I remember that time. I was a prosecutor then.

MR. MUELLER: You were a prosecutor.

And my concern is that their sentences will be up and they'll be coming out to an economy that does not have jobs and coming out without a skill set that would lend them -- give them the ability to be competitive in a very tight economy and that that would contribute to an uptick in violent crime.

And we, along with a number of the entities -- PERF, Major Cities Chiefs, Major Cities Sheriffs organizations -- are talking about ways we can work together in anticipation of what may be an uptick in violent crime down the road.

SEN. KLOBUCHAR: One of the things that you talked about with Senator Kaufman and that you and I had talked about is the effectiveness of the joint task force and how important that is when you're dealing with either it's drug crime, violent crime, some of these financial crimes, and I've certainly seen that in our state, particularly with the suburban police departments that can all work together.

Could you talk about how we can create more incentives for financing those so that we make sure that our money is used most effectively when we send it to the local level?

MR. MUELLER: I've been supportive over the years in terms of financing, providing, augmenting financing for state and local law enforcement.

I do believe, though, it would be helpful as monies are allocated by Congress to state and local law enforcement it be tied into an incentive for maybe a task force structure so that the monies would be utilized to incentivize, to encourage state and local law enforcement to work with the federal government.

It's my experience as a U.S. attorney that I was not knowledgeable as to the grants that were going to particular police departments and the grants going to particular police departments may well have been as a result of exceptionally capable grant writers as opposed to being part of a larger scheme of what are the issues, what are the threats within a particular district or division, and how do we work together to address those particular threats with the monies that will be coming through the grant process.

SEN. KLOBUCHAR: And you mentioned the local law enforcement, and in our state, as you know, we've had good relationships between federal law enforcement, local law enforcement. That's not always been true everywhere in the country.

With a, you know, new administration coming in now, a new attorney general and potential there with the new U.S. attorneys, do you have ideas about how we can improve relationships between local -- not just local law enforcement, also local prosecutors and those on the federal level?

MR. MUELLER: Well, as a result of September 11th, one of the beneficial, you know, very few, I guess, beneficial results of that attack was the understanding that we all have to address terrorism within our districts together, and a number of vehicles were established.

For us, it was joint terrorism task forces. We went from I think 35 to we have 106 now. U.S. attorneys offices have since then and continuously pulled together the various prosecutors and sit down with the various law enforcement agencies to address terrorism. And those relationships I believe have expanded to other areas that traditionally we perhaps have stayed apart.

I do think that in a transition from one administration to another, the smoothest often is with law enforcement because we all speak the same language and we all have the same goals. And consequently, across the country I do not see much of a change in terms of relationships. In fact, a number of persons who have been U.S. attorneys before me will be back being U.S. attorneys again, so they're familiar with the ground and the operating relationships.

SEN. KLOBUCHAR: Very good.

I think I told you this story. Mr. Chairman, when we had a new U.S. attorney come in and we decided -- I was the local prosecutor -- that we would get the groups together, the prosecutors on both sides together and he hosted a little party for us in their office. And I never told, Mr. Chairman, I never told our office that before we got there -- I was there early -- he got on the loudspeaker and said, "Nail down the furniture, the cousins are coming over."

But we were able to actually build a much better relationship because of making that a focus, and we were able to share casework better, especially so that when 9/11 came we were able to take on a number of the white-collar cases that they would have had before.

So thank you very much for your work.

SEN. LEAHY

Before I yield to one of those federal cousins -- former -- Senator Whitehouse, we're trying to get all of the prosecutors here -- Director, I'm going to put into the record on behalf of Senator Grassley a number of letters and documents regarding oversight that he wanted in the record and also a description of the Leahy-Grassley-Kaufman-Klobuchar, et cetera Fraud Enforcement and Recovery Act, which speaks of adding 190 special agents and more than 200 forensic analysts and other staff to address mortgage and financial fraud that be made part of the record.

Senator Whitehouse?

SEN. SHELDON WHITEHOUSE (D-RI): Thank you, Mr. Chairman.

Welcome, Director Mueller. I've served both as a U.S. attorney but also been the cousins and served as attorney general, and when I was attorney general we went over to visit the U.S. attorneys office. The only things that were at risk were

the pads and pencils that we tried to -- (laughter) -- supplant our meager resources with. We were nowhere near energetic enough to put the furniture at risk, so I applaud my colleague from Minnesota.

The cyber issue is one that you address at some length in your testimony and I appreciate that very much. It's less a type of crime than an arena of crime and other misconduct. It ranges from simply people who are expert hackers showing off their stuff to traditional criminal activity to what we would consider to be advanced industrial espionage to what we would consider to be national security espionage, and it creates the risk of outright acts of destruction and war being taken against our country through the cyber medium.

In all of that my fear is that our resources are presently inadequate to the task and that the way in which we address the cyber threat creates very considerable civil liberties and privacy risks. Having just been through the unfortunate episode of the Bush administration's warrantless wiretapping of Americans and the remarkable role, frankly, played by the Department of Justice in standing up to that -- and yourself, I might add -- what would your advice be for us as members of Congress as to the authorities, the resources, or the resolutions of difficult issues like civil liberties issues that you need us to do in order for our country to be more effective?

You're at the spear point, but you work off of authorities that we give you, you work off resources that we give you, and you work constrained by unresolved questions that we leave unresolved. If you were going to give us a top three or four things that we should be focusing on to address this cyber threat, what would those be?

MR. MUELLER: Well, I think the civil liberties issues are less extant when you're looking at the ability of state actors to penetrate, whether it be defense or the stock market or what have you and that how you protect those networks is one issue where one would have more leeway because they are networks that are controlled by the federal government.

The issue about other networks -- dot-coms, edu, and the like -- that are not controlled by the federal government raises a number of privacy issues that need a broader discussion, quite obviously, in the judiciary committees and others.

SEN. WHITEHOUSE: How far along in that discussion do you feel we are from the point of view of providing you with policy support for the decisions you need to make?

MR. MUELLER: Well, I don't think the discussion is far along at all. I do think it's in part attributable to the change of administrations because the view taken by the previous administration is being reviewed by this administration.

And that at the time that that review is completed, this is --

SEN. WHITEHOUSE: This is the 60-day review you're referring to?

MR. MUELLER: Pardon?

SEN. WHITEHOUSE: This is the 60-day review you're referring to?

MR. MUELLER: Yes.

SEN. WHITEHOUSE: Okay.

MR. MUELLER: Yes.

But part of it is education in terms of educating on the issues, the extent of the issues, and then the second part of it is the solution.

And my expectation is those discussions will increase substantially in the next several months as this administration has an understanding and a view as to how we solve particularly the issue of attacks on the Internet and the like, the dot-gov and outside of the more classified issues that relate to state actors and terrorists and the like.

But in my mind they're in some sense two baskets of issues that require different solutions.

SEN. WHITEHOUSE: So if we focus briefly on the civil liberties side, your sense is that the discussion as to where the policy line should be drawn is at a fairly preliminary stage and does demand further work by Congress, correct?

MR. MUELLER: Absolutely.

SEN. WHITEHOUSE: And with respect to the resources and authorities side, what recommendations have you with respect to those areas? Do you feel that you have the cyber resources that you need? Do you feel that you have the authorities that you need?

MR. MUELLER: I don't think anybody feels they have the cyber resources they need to do the job.

In 2009 budget we received 31 agents, 52 personnel, \$19 million, but with the growth of the cyber arena, as you call it, which is appropriately so because it infects or affects -- it either infects or affects everything we do now -- is growing by leaps and bounds, and all of us struggle to keep up with it.

And there are new and innovative ways of undertaking intrusions in the systems and extracting information that the defense is one step behind the attackers.

And all of us, I think we could use more resources, though, although we are very adept and we've got, whether it be military and NSA or ourselves, we've got some very, very talented people to address --

SEN. WHITEHOUSE: Yeah. I've got just a few seconds, so if you don't mind, let me cut you off and ask one last question.

You're going to be looking obviously at financial fraud in a very big way. A great number of questions from the senators here have focused on this concern. What I would ask is your assurance that your instruction to your organization will be to pursue those investigations as high up as they can be driven.

We both know from our experience that it's actually a good deal easier to stop at the bottom layer, where you've got one or two people bagged with a, you know, a bad e-mail or a falsely signed document or something, and that to push it up to higher levels requiring conspiracies to be proven and much more investigative effort to be dedicated is a management choice that has to be made.

And I would ask your assurance to all of us that in that balance you will be pressing your organization to push upward as far as the facts and the law will drive, and if you need additional resources to make that work that you will ask us for those. I don't want to have this be civil Abu Ghraib in which a couple of home mortgage dealers in, you know, Cranston, Rhode Island get prosecuted and the guys at the top get away with it.

MR. MUELLER: You have my assurance. You also should know that my approach in these cases, it's not the traditional white-collar crime but the narcotics case approach. The fastest way to get these cases done is to obtain the intelligence indicating who was in what place at what time and then have persons cooperate and cooperate as far to the top as you can go as fast as you can go, as opposed to putting agents in a big room with a lot of paper and trying to sort through the paper.

And in my experience, when it comes to white-collar crime, I put narcotics prosecutors in charge of that because I thought they were as effective as any. And so you have our assurance that we will utilize that approach to go as far as we can in the organizations.

SEN. LEAHY

Thank you very much, Senator Whitehouse.

Senator Durbin.

SEN. RICHARD J. DURBIN (D-IL): Mr. Director, thank you for being here today. It's good to see you again.

And I know that there have been questions asked earlier about the Mexican drug cartels and I'd like to focus on one particular aspect. Arizona Attorney General Goddard testified before my subcommittee last week in reference to the battles being fought in Arizona over these drug cartels and their activities. He described in shorthand term that the cartels are shipping drugs and humans into the United States and we are shipping cash and guns into Mexico. It seems to be the equation -- the sad, tragic equation that takes place.

Now, I want to ask you about two aspects of that and I know one has been touched already. But let me give you an illustration of why I'm asking this question. Last week a state judge in Arizona dismissed charges against a gun dealer who was accused of knowingly selling about 700 weapons through intermediaries to two smugglers who shipped the weapons to a Mexican drug cartel. Several of the weapons were recovered in Mexico after shootouts with the police, including a gun fight last year in which eight Mexican police officers died. The case shows how difficult it is to convict gun dealers in the United States who were knowingly supplying weapons to Mexican drug cartels.

As I understand it, it is not a federal criminal offense to traffic firearms in the United States, and, in order to prosecute gun dealers and purchasers who knowingly sell and purchase guns from Mexican gun cartels, federal law enforcement has to charge these individuals with paperwork violations such as making false statements on purchase forms. These paperwork offenses have low penalties and can be hard to establish and obviously are not a priority when it comes to prosecution.

Now, the estimate on the volume of firearms from the United States to Mexico is wide-ranging. The highest estimate I've read comes from the Brookings

Institution, which suggests 2,000 firearms a day from the United States shipped into Mexico to engender these drug wars where they're killing off one another, the police and innocent people.

I think we bear some moral responsibility to slow this flow of guns into Mexico, particularly in examples such as I've given you. No one buys 700 weapons for self-defense or for sporting or hunting purposes. It clearly is a purchase for the sole reason of resale. And, in this case, we had a gun dealer who was found to have done this and couldn't find a law to prosecute him under.

What is your impression?

MR. MUELLER: I'm not familiar with that case. I know that we -- by we, I mean the federal government prosecutes any number of cases each week of straw purchasers and that that is a substantial focal point for ATF. That sounds outrageous that, under those circumstances, as you describe it, the person would not be jailed and I would -- I'd go back and look at the legal framework as you obviously are to make certain that this doesn't happen.

And it's not just guns to -- it's not just guns to Mexico, but it's guns within the United States.

SEN. DURBIN: Absolutely.

MR. MUELLER: It's gangs who are straw purchasers. And so it's a substantial problem both domestically as well, as is highlighted in the last week or so, with regard to what's happening in Mexico.

SEN. DURBIN: Your background is in the law and law enforcement. My world is political. And in the world of politics, many people are shying away from even discussing this question. But I think -- I'm going to ask you in your official capacity to take a look at the existing laws as they relate to straw purchasers. I don't believe that we can turn our back and say that this Mexican drug cartel is just a bunch of angry Mexican gang members killing one another off. I mean, we are, in fact, providing firearms that arms these drug cartels and, unfortunately, creates mayhem.

I had a meeting, a private meeting, with a Mexican mayor on a border city, in a border city, who has shipped his family to America because they're not safe to be there. And many like him are threatened every single day -- threatened with American weapons bought illegally in the United States and shipped in volume into Mexico. So I'll ask you to look at that.

The other thing that Attorney General Goddard brought up was the transfer of funds from the United States to Mexico and he talked about several things that we're looking into. One is the stored-value card, which I wasn't aware of, but it's the equivalent of a credit card that has some dollar value associated with it that can be used. And he raised the question as to whether or not we're looking at that as a means of transferring money across the border -- a simple, little plastic card. I don't know if you're familiar with that or have looked into it. He suggested law enforcement should be able to read the cards, how much money's on this card, since there are limitations to have much cash you can take over the border. Have you run across this issue?

MR. MUELLER: I had not until I think your staff, in preparation of the hearing, raised it to me as being an issue. Periodically there are new mechanisms that

come up for shipping funds across the country. Some of them are by the Internet now, some are "remittitur" (sic) organizations. When we're looking at these cards, one of the things -- I don't know whether you suggested it or others, is you look at the registration and the tracking of those cards to give us a mechanism for tying the monies into particular individuals who may be involved in illegal activity. And that is something we'll look at as a result of your inquiry.

SEN. DURBIN: Thank you. We estimate \$10 billion is being transferred in drug proceeds from the United States into Mexico each year -- thousands, maybe hundreds of thousands of firearms and \$10 billion. And I've spoken to representatives of the Mexican government who are doing their best in the face of 6,000 or more being killed last year in their country, to put the military on the border. But they expect us to do our part, too, to reduce, where we can, this flow of firearms and flow of cash and, I guess, the bottom line, address the drug laws in America.

I only have a few seconds left and I won't have time to get into a long list of questions on one of our favorite topics and that's technology at the FBI. And I do know, and we've talked about it at length, that you inherited one of the most backward systems in the federal government, that at the time of 9/11 that the capacity, the computer capacity at the FBI was not as proficient as you might find off the shelf at a Radio Shack in a shopping center. But things have changed. There have been some false starts. And I believe now that the Sentinel program is under way; there's a GAO report that came back with some observations. I'd like to give you an opportunity to comment on those in an orderly way so that we can be brought up to date.

MR. MUELLER: There are a number of areas that we've made substantial progress. Sentinel is on target, on budget. We now have 24,000 BlackBerrys, the basic accoutrements of the technology age. One of the issues was we work on a secret platform. Everybody has secret. We have upgraded where necessary to the top secret, which requires SCIFs and secure areas but also the second set of computers and the networks, and we also now are up to 30,000 out of 36,000 computers that can handle the Internet for our employees. And so we have to operate it and have three networks. You have to have the unclassifieds, you have to have the secrets, you have to have the classified, and we've made substantial strides.

We still have work to do. This year I will tell you on Sentinel is sort of the year we get over the mountain. And so I'm -- we've been meeting on this every other week or so and we're pushing it forward. We've made substantial strides. But I'm not going to declare victory until Sentinel is in and everybody has it and we are not just up with everybody else but ahead of everybody else.

SEN. DURBIN: Well, the best law enforcement agency in the world should have the best technology, and I know this has been a mountain that you have climbed and I've joined you in a few of those hikes in the past.

Thank you.

MR. MUELLER: Thank you.

SEN. LEAHY  
Thank you very much.

I guess our last questioner is going to be Senator Wyden and then I know we have a roll call vote and that will be at noon. (Off mike consultation.)

Senator Wyden.

SEN. RON WYDEN (D-OR): Thank you, Mr. Chairman.

And Director Mueller, welcome.

And I want to pick up exactly where Senator Durbin left off and that's this question of the information technology issue. Do all FBI analysts and agents now have access to the Internet at their desktops?

MR. MUELLER: Thirty thousand out of 36,000. The reason that we do not have the last 6,000 at this juncture is because several offices, it would be financially -- how do I want -- it would be, to put in the networks, and that is to do the wiring and the like, would be -- does not make any economic sense, particularly when these offices are going to move very shortly. And so to the extent that we have been able to put in a second network we have with just about everybody in the organization, and even if they do not have it at their desk, those other 6,000 computers we want, they will have access to the Internet nearby.

SEN. WYDEN: That obviously has been something that has been troubling to people, and as you know, I've asked about this in the past.

MR. MUELLER: Yes.

SEN. WYDEN: And my other capacity is a member of the Intelligence Committee.

With respect to the move, when will it be possible to say that all FBI analysts and agents have access to the Internet at their desk? In other words, you've said there's going to be 6,000 people still because of expensive facilities and the like. On what date will it be possible to say that the agency is really getting close to the point of 21st century technology?

MR. MUELLER: Well, I would say we're at 21st century technology. There are these pockets in particular offices, and by the end of the year, we would expect to be 99 percent done.

SEN. WYDEN: Okay.

MR. MUELLER: And I would say we are in the 21st century. I mean, there's nobody, I don't believe, who has -- does not have ready access to the Internet at this juncture.

SEN. WYDEN: I know this has been frustrating for you. I think people were incredulous when I asked these questions earlier and I know progress has been made. And that's why I'm asking it again.

MR. MUELLER: Thank you.

SEN. WYDEN: With respect to secure case management computer systems, and this is another area where you all have spent a lot of time, it's my understanding that there's currently no way to share audio or video files on the system now. Is that correct?

MR. MUELLER: I don't think that's correct. I know we have mechanisms to do that. I'd have to get back to you with the specifics of it.

SEN. WYDEN: Would you?

MR. MUELLER: I will.

SEN. WYDEN: Because that was my understanding, that it wasn't currently possible to share that information. If you'll get back to me then --

MR. MUELLER: I will.

SEN. WYDEN: -- that'd be great.

MR. MUELLER: I don't think that's accurate.

SEN. WYDEN: With respect to the role of intelligence analysts, I think it's well understood that they're going to be critical in terms of the bureau's function. And in 2004, the Congress gave the agency special authority to hire 24 senior intelligence analysts. But in 2007, when I asked about this, I was told that only two of these senior positions had been filled.

So, again, I'm just reporting to you what I've been told. But I have been told now that only five of these senior intelligence spots have been filled. This is five out of the 24 that the Congress felt strongly about. Do you know if that's correct?

MR. MUELLER: I'll have to go and check on that. I do believe it's more than five, but I'd have to check on that. I know we took some of those spots and utilized them in a way that made more sense to the organization, but I'll have to get back specifically on that to you.

SEN. WYDEN: Do you know if the agency plans to fill all 24 of the spots?

MR. MUELLER: That's where I am -- I'd have to get back to you, because I believe that we were utilizing those spots in a way that was consistent with the intent of the statute but may not be the exact spots as put into the statute.

SEN. WYDEN: So you'll get back to me on that one?

MR. MUELLER: I'll do that.

SEN. WYDEN: Okay. Let me ask you about one other one and that's the question of the FBI briefing congressional committees on terrorism and counterintelligence inquiries.

The concern here is that frequently it hasn't been possible to get those briefings and the Linder letter is cited as the justification. So when the FBI withholds information on national security matters, obviously it's hard then for the Congress to assess security threats to the country or how well the FBI is adapting to meet the threats.

So I understand the need to be able to protect U.S. person information and I think it's obvious that this committee and members of the United States Senate don't want to do anything to jeopardize ongoing inquiries, but, at the same time,

this status quo makes it hard to do sensible and thoughtful congressional oversight.

So I think it is time to make a change here. I think it is time to reverse policy here. And my question is, in your view, can briefings from the FBI and the DOJ be structured so that the Congress gets the intelligence information it needs for effective oversight without compromising what you need to be able to do your investigations and your prosecutions? It seems to me you have this Linder letter and certainly the Congress is frustrated because we don't feel that we're getting the information we need about terrorism and counterintelligence investigations.

Your people, I'm sure, chafe at the idea of doing these briefings because they're concerned about compromising ongoing, you know, prosecutions and investigations. How do we get to a sweet spot where you can do your work, which is, in my view, vitally important to the country, and the Congress can do some oversight?

MR. MUELLER: The short answer is yes, we can work on this issue. And I'll tell you, we have frustration because now that we disseminate a lot of the information, particularly in the counterterrorism arena, what we're finding is the information we disseminate is coming out and being briefed to the Intelligence Committee by others, where we're precluded by the Justice Department in briefing that which we have provided to the other agencies. And so we will be working with the Department of Justice to work out a mechanism whereby we can brief on intelligence matters without adversely impacting ongoing investigations.

SEN. WYDEN: In your view -- and I appreciate that because your answer certainly suggests that you're open to it -- what would be a plan, what would be an alternative to a Linder letter in your view, just conceptually?

MR. MUELLER: I would think, certainly in intelligence, that we could brief on matters that we have distributed to the intelligence community unless there is a particular concern relating to a particular ongoing investigation. There also are mechanisms to -- one of the problems we have is that, by reason of either statutes or other presidential directives, we are unable to, or should not, utilize in briefings names of, for instance, United States citizens; that could be part of it, where you can talk generally without getting -- doing the specifics, so that there are mechanisms that could be adopted that would protect not only U.S. citizens but also ongoing prosecutions.

One of the concerns one has is the fact that most of our intelligence is developed on U.S. citizens that have a higher degree of privacy interests and rights than perhaps others that the agency is looking at overseas.

SEN. WYDEN: My time is --

SEN. LEAHY

A roll call vote has begun. We are going to end this at noon.

SEN. WYDEN: Mr. Chairman, I --

SEN. LEAHY

I realize you weren't here for much and you didn't know that, but go ahead. You had another question?

SEN. WYDEN: Mr. Chairman, I would just wrap up very quickly.

I think this is a constructive approach that you're outlining, Mr. Director. I would hope that we could narrow the times when there wasn't a brief, narrow the number of instances where the Linder letter was invoked. I'm interested in working with you.

Thank you, Mr. Chairman.

SEN. LEAHY

Thank you, thank you very much, Senator Wyden.

Senator Sessions, you wanted three more minutes.

SEN. SESSIONS: Thank you. You're very kind, Mr. Chairman.

Mr. Director, we're all concerned about the violence in Mexico. You've been asked about it previously. And we had a hearing about that recently with ATF and Homeland Security and some other agencies, not the FBI. But it strikes me that the new president there is standing up not because we've told him what to do but because he understands the threat to Mexico. And he's challenged these organizations, and a lot of the violence we're seeing is because the government is challenging them. But they are a powerful force.

They have the ability to assassinate, kidnap, murder leaders and mayors and police chiefs that stand up against them, and it's a very dicey time. And I think we should do what we can to help.

It strikes me that the best way we could help would be to vigorously prosecute the parts of those organizations that are operating in the United States that are selling drugs and cocaine and methamphetamine and other drugs in this country, collecting the money, sending it back to build up the wealth and power of these cartels.

So I guess my question to you is, do you fundamentally think that's, if not the -- that's perhaps the best thing we can do to help. Are we doing enough and will the FBI participate?

MR. MUELLER: Well, we've participated, as I indicated before. In OCDETF, as you're familiar with, we're a strong participant in that. That's an area where we've maintained our participation. Secondly, we work with DEA and ATF and other agencies through the OCDETF mechanism to address the cartels throughout the United States.

SEN. SESSIONS: OCDETF is Organized Crime Drug Enforcement --

MR. MUELLER: Task Force.

SEN. SESSIONS: -- Task Force that has multiple agencies participating that target the biggest kind of drug organizations.

MR. MUELLER: And as a result of that, there have been a number of prosecutions over the years, and to the credit of President Calderon, he has increased substantially the extraditions to the United States of those cartel leaders. There were 95 last year. There are 23 this year. The 95 last year trebled the extraditions from three years previous.

SEN. SESSIONS: So you are finding more cooperation than we've had before with Mexico.

MR. MUELLER: Yes. Absolutely.

SEN. SESSIONS: I think that's the partnership that we should push forward with. Many of these guys that flee back and forth across the border move back and forth. We prosecute them if they'll extradite them, and we put them in a firm federal prison where they can't buy their way out of jail or break out of jail.

I think it can help, Mr. Chairman, to reduce the power of these cartels and strengthen the ability of the strong Mexican president to be successful.

MR. MUELLER: Thank you, sir.

SEN. LEAHY

I thank the senator from Alabama.

I agree with him that we have got to help Mexico get this under control. They are, as I said in my opening statement, the second largest trading partner that the United States has. They are our Southern border. They are a significantly democratic nation and to have their democracy basically torn apart by public corruption and drug money is something they don't want, certainly President Calderon doesn't want.

You've been down there, Director Mueller. You know that neither side wants nor - - and neither side -- or both sides are damaged. Both sides of the border are damaged if it continues.

So I'll put my full closing in the record, but I do thank the director not only for his service but in working with us. We've raised a number of issues. We'll continue to work together and I appreciate him doing that.

And I thank you for being here.

MR. MUELLER: Thank you, sir.

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