AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

109TH CONGRESS
2d Session

SENATE

REPORT
109–369

Activities Report

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

2005–2006

DECEMBER 22, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of December 9
(legislative day December 8), 2006

U.S. GOVERNMENT PRINTING OFFICE

59–010 WASHINGTON : 2007

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ARLEN SPECTER, Pennsylvania, *Chairman*

ORRIN G. HATCH, Utah
CHARLES E. GRASSLEY, Iowa
JON KYL, Arizona
MIKE DEWINE, Ohio
JEFF SESSIONS, Alabama
LINDSEY GRAHAM, South Carolina
JOHN CORNYN, Texas
SAM BROWNBACK, Kansas
TOM COBURN, Oklahoma

PATRICK J. LEAHY, Vermont
EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, JR., Delaware
HERBERT KOHL, Wisconsin
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin
CHARLES E. SCHUMER, New York
RICHARD J. DURBIN, Illinois

MICHAEL O'NEILL, *Chief Counsel and Staff Director*
BRUCE A. COHEN, *Democratic Chief Counsel and Staff Director*

CONTENTS

	Page
INTRODUCTION	
I. MAJOR BILLS AND HEARINGS	5
A. CIVIL LAW ISSUES	5
B. CRIMINAL LAW ISSUES	20
C. IMMIGRATION LAW	30
D. CONSTITUTIONAL LAW	37
E. ANTI-TERRORISM MEASURES	46
F. COURTS & THE JUDICIARY	52
II. OVERSIGHT MATTERS	58
III. NOMINATIONS	69
A. NOTABLE JUDICIAL NOMINATIONS	69
1. UNITED STATES SUPREME COURT	69
2. UNITED STATES COURTS OF APPEALS	73
3. DISTRICT COURTS	93
4. OTHER COURTS	94
B. NOTABLE EXECUTIVE NOMINATIONS	94
IV. APPENDICES REGARDING NOMINATIONS	108
A. MEMORANDUM OF UNDERSTANDING ON JUDICIAL NOMINATIONS—GANG OF FOURTEEN AGREEMENT	108
B. LETTER: CHAIRMAN SPECTER TO AMERICAN BAR ASSOCIATION (MICHAEL S. GRECO AND STEPHEN L. TOBER); JUNE 22, 2006	109
C. LETTER: STEPHEN L. TOBER TO CHAIRMAN SPECTER; JUNE 30, 2006	110
D. LETTER: CHAIRMAN SPECTER TO AMERICAN BAR ASSOCIATION (MICHAEL S. GRECO AND STEPHEN L. TOBER); AUGUST 7, 2006	111
E. LETTER: THEODORE B. OLSON (ON BEHALF OF ABA) TO CHAIRMAN SPECTER; SEPTEMBER 14, 2006	114
V. SUMMARY MATERIALS REGARDING NOMINATIONS	117
A. ARTICLE III JUDGES CONFIRMED	117
B. NOMINATIONS HEARINGS BY DATE	118
C. DAYS ON THE SENATE FLOOR	119
D. HISTORICAL VACANCY RATES 1977–PRESENT	120
E. HISTORICAL VACANCY RATES BY CONGRESS	121
F. DISPOSITION OF ARTICLE III JUDGES	123
G. RELEVANT DATES FOR 109TH CONGRESS NOMINEES	125
VI. SUMMARY MATERIALS REGARDING COMMITTEE ACTIVITIES	136
A. STATISTICAL OVERVIEW	136
B. HEARINGS OF THE 109TH CONGRESS	136
C. EXECUTIVE BUSINESS MEETINGS WITH AGENDAS	140
D. BILLS, NOMINATIONS, AND MATTERS REPORTED	171
E. SUCCESSFUL LEGISLATION	174
F. PUBLICATIONS	181
VII. COMMITTEE STRUCTURE AND PROCEDURE	186
A. FULL COMMITTEE MEMBERSHIP	186
B. SUBCOMMITTEE MEMBERSHIP	186
C. JURISDICTION OF THE COMMITTEE	187
D. RULES OF THE COMMITTEE	194

INTRODUCTION

Staff of the Senate Committee on the Judiciary under the direction of Chairman Arlen Specter prepared the following report detailing the Committee's activities during the 109th Congress. One of the Senate's original standing committees, the Committee on the Judiciary was first authorized on December 10, 1816. The Committee enjoys one of the broadest jurisdictions in the Senate, ranging from constitutional law and criminal justice issues to antitrust and intellectual property concerns. The Committee actively pursued hearings and legislative initiatives in a broad variety of areas, achieving notable successes in the enactment of bankruptcy and class action reform and in re-authorizing the Department of Justice's many important programs. The Committee also fulfilled its obligation in reporting numerous Article III judges and executive branch officials to the Senate floor. Of particular significance, the Committee held hearings for, and favorably reported out, John G. Roberts to be Chief Justice of the United States and Samuel A. Alito to be an Associate Justice of the United States.

I. MAJOR BILLS AND HEARINGS

A. CIVIL LAW ISSUES

S. 852, FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2005

S. 3274, FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2006

Asbestos reform legislation played a prominent role on the Judiciary Committee's agenda during the 109th Congress. The Committee confronted enormous challenges in seeking to resolving one of the nation's worst litigation crises.

Tens of thousands of Americans have developed debilitating or deadly asbestos-related diseases, and more will become ill in the coming years. The existing tort system has been unable to resolve claims adequately and efficiently, or ensure that current and future victims of asbestos are fairly compensated for their injuries. The sheer number of claims has clogged both state and federal courts. Contingency fees have significantly reduced the real value of payments to victims. Claims by unimpaired individuals have delayed payments and reduced the amount available for the truly sick. Asbestos claims have driven many defendants into bankruptcy, leaving some victims without payments altogether and other victims diverted to bankruptcy trusts that offer miniscule payments. Furthermore, these corporate bankruptcies endanger the jobs and pensions of many American workers.

Indeed, the Supreme Court has implored Congress to address the asbestos litigation crisis, noting on more than one occasion that the current flawed system "defies customary judicial administration." *Ortiz* v. *Fibreboard Corp.,* 527 U.S. 815 (1999). The Court has sug-

gested that "a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure." *Amchem Products Inc.* v. *George Windsor,* 521 U.S. 591 (1997).

The 108th Congress sought to address asbestos reform with S. 1125, a bill introduced by Senator Hatch and favorably reported from the Committee. Although that bill was never considered by the full Senate, it served as the starting point for negotiations initiated by Chairman Specter in the 109th Congress and led by the late Honorable Edward R. Becker, Senior Judge and Former Chief Judge of the United States Court of Appeals for the Third Circuit. Judge Becker hosted 47 meetings with asbestos defendants, insurers, labor unions, victims' groups, the trial bar and other interested parties. Many important compromises were reached during these negotiations, which secured support from a broad spectrum of stakeholders, including such labor groups as the International Union of Heat and Frost Insulators and Asbestos Workers and the United Auto Workers, which previously opposed asbestos reform.

The Becker negotiations resulted in several proposed changes to S. 1125 as reported in the 108th Congress. These included modifications strengthening the medical criteria to be applied to persons with lung cancer and a history of smoking, increasing scheduled payments to claimants with malignant diseases, and eliminating insurers' rights of subrogation with respect to fund payments. These changes ensured that compensation would go to those truly injured by asbestos exposure—not to the unimpaired—while at the same time maximizing compensation for victims.

Early in the 109th Congress, as a product of these negotiations, Chairman Specter and Ranking Member Leahy introduced comprehensive legislation to resolve the asbestos litigation crisis. S. 852, the "Fairness in Asbestos Injury Resolution Act" ("FAIR"), was cosponsored by Committee Members Senators DeWine, Feinstein, Grassley and Graham. The legislation was designed to unclog the courts and simplify recovery for victims by establishing a privately funded, "no-fault" compensatory trust fund. Under the FAIR Act, businesses with asbestos liability would be required to make contributions to the fund, but would spread those contributions out over the life of the fund, preventing further bankruptcies and thereby protecting jobs and worker pensions. The fund, in turn, would provide victims with greater certainty by offering fixed awards and ensuring compensation to individuals, including veterans, who are currently unable to pursue their claims in the tort system.

The Committee held hearings contemporaneous to the Becker-mediated stakeholder sessions, taking testimony from 28 witnesses over three days. At the conclusion of these hearings, the Committee considered the legislation over the course of six executive business meetings. During consideration of the bill, Committee Members circulated over 160 amendments.

The Committee considered 89 of these amendments, ultimately approving 75. For example, the Committee adopted a proposal by Senator Feinstein to revise the procedure for the fund's start-up, a new mechanism for sunsetting the fund drafted by Senators Feinstein and Kyl, provisions proposed by Senator Coburn to strength-

en medical scrutiny for claims brought by smokers, a requirement for a study on the effectiveness of CT scans advocated by Senators Coburn and Kohl, and additional protections for small businesses championed by Senators Brownback and Cornyn. The Committee also adopted, by voice vote, an amendment introduced by Senator Durbin that accelerated payments to the families of deceased victims and an expedited judicial review provision advanced by Senator Feinstein.

The Committee rejected 14 amendments, including some that would have expanded narrow exceptions in the bill. For example, the FAIR Act exempted the residents of Libby, Montana—home to a mine contaminated with asbestos and the site of a massive EPA cleanup effort—from the exposure requirements contained in the bill. The Committee voted down amendments offered by Senators Kennedy and Graham that would have extended this exemption to communities where no evidence of widespread contamination exists. Accepting these amendments would have lost the support of key Senators and would have jeopardized the health of the national trust by opening the door to claims from individuals whose illnesses are not asbestos-related.

The Committee favorably reported S. 852, as amended, on June 16, 2005. The Majority Leader subsequently moved to proceed to consideration of the legislation. Cloture on the motion to proceed was successfully invoked by a vote of 98 to 1. At the same time, the Senate voted to table a complete substitute offered by Senator Cornyn by a vote of 70 to 27. The Cornyn substitute would have tightened the medical criteria used by courts when deciding asbestos cases rather than providing a comprehensive trust fund.

Despite the invocation of cloture, Senator John Ensign raised a budget point of order against the FAIR Act, pursuant to Section 407(b) of the previous year's budget resolution. Under the resolution, the Senate may not consider legislation that would increase long term spending by more than $5 billion during any ten-year period. Sixty votes are required to waive this restriction. Proponents of the FAIR Act argued that the budget point of order should not apply because the fund's operations would be capitalized solely by private contributions. They observed the Congressional Budget Office had concluded that "the government's general funds would not be used to pay asbestos claims" and that the FAIR Act would be "deficit-neutral over the life of the fund."[1] These proponents fell short by one vote: the Senate voted 59 to 40 to waive the budget point of order.

Consistent with Senate procedure, S. 852 was recommitted to the Committee. After this action, Chairman Specter met with other Senators to discuss their concerns with asbestos litigation reform legislation. On May 26, 2006 the Chairman and Ranking Member introduced the Fairness in Asbestos Injury Resolution Act of 2006, a further refinement of the FAIR Act of 2005.

The legislation incorporated several amendments filed during the floor debate of S. 852, including an alternative allocation system for small and medium-sized businesses proposed by Senator Kyl and filing procedures for individuals exposed to asbestos as the result

[1] Congressional Budget Office letter to Senator Judd Gregg, February 14, 2006.

of a natural disaster authored by Senator Mary Landrieu. In addition, the legislation contained protections for defendant companies with large insurance reserves, which may otherwise have been forced to pay more to the national trust than they would in the tort system.

Pursuant to the provisions of rule XIV, S. 3274 was placed directly on the Senate Legislative Calendar. The Committee held a hearing on the legislation on June 7, 2006, taking the testimony of eight witnesses representing the business community, labor organizations, veterans and victims groups. The legislation, however, was not considered by the full Senate.

S. 5, CLASS ACTION FAIRNESS ACT OF 2005

The Judiciary Committee played a vital role during the 109th Congress in enacting class action reform, an issue that had been considered by Congress for nearly a decade. On January 25, 2005, Senators Grassley, Kohl and Hatch introduced S. 5, the "Class Action Fairness Act of 2005." Committee Members who cosponsored the bill included Senators Cornyn, DeWine, Kyl, Schumer, Feinstein and Sessions. The bipartisan legislation was aimed at keeping large interstate class actions in federal courts rather than in a handful of state court jurisdictions favored by the plaintiffs' bar.

The bill expands federal diversity jurisdiction to cover class actions in which the aggregate amount in controversy exceeds $5,000,000, and where any member of a plaintiff class is a citizen of a state different from any defendant. Prior to this legislation, federal courts interpreted the diversity jurisdiction statute as requiring complete diversity between all plaintiffs and all defendants. Accordingly, plaintiffs' attorneys could keep large nationwide class action lawsuits in state court by simply suing an insignificant local defendant (e.g., a local pharmacy which may have distributed a drug that allegedly caused harm to the plaintiffs' class).

The Act balances state concerns to adjudicate local class action disputes by creating specific exceptions to federal jurisdiction. Under the Act's home state exception, state courts maintain jurisdiction of class actions in which the defendant is sued in its home state and where at least two-thirds of the plaintiff class are citizens of the defendant's home state. If less than one-third of the class members are citizens of the defendant's home state, the case is removable to federal court. For class actions where 33%–66% of the class members share state citizenship with all defendants, the federal judge must decide whether to exercise jurisdiction based on six specified factors that analyze the relationship between the lawsuit and the state where it is brought.

Additionally, under the Act's local controversy exception, state courts maintain jurisdiction of class actions in which (1) at least two-thirds of the proposed class members are citizens of the forum state, (2) the plaintiffs have sued at least one in-state defendant whose conduct forms a significant basis of their claims, (3) the principal injuries occurred in the state where the suit is brought, and (4) no class action has been filed alleging the same claims against any of the defendants in the last three years.

Finally, the Act protects consumers by giving federal courts enhanced oversight of class action settlements. The Act requires fed-

eral courts to issue written fairness decisions before approving coupon settlements or "net loss" settlements and to value attorneys' fees in coupon settlements based on those coupons that are actually redeemed by the class members plus, where applicable, the value of any injunctive relief. The legislation also prohibits the district court from approving a settlement that disproportionately awards payments to class members based on geographic proximity to the court.

The Committee met on February 3, 2005 to consider S. 5. During this session, Ranking Member Leahy offered an amendment authorizing the increase of federal judge salaries, which was defeated by a vote of 13–5. The bill was then reported favorably out of Committee by a 13–5 vote. On February 10, 2005, S. 5 passed the full Senate without amendment on a roll call vote of 72–26. The House followed suit a day later by passing the Senate bill on a roll call vote of 279–149. On February 18, 2005, President George W. Bush signed the measure into law (PL 109–2).

S. 256, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

After passing class action reform, the Committee turned immediately to enacting long-awaited bankruptcy reform legislation, an issue considered by the Congress since 1997. On February 1, 2005, Senator Grassley introduced S. 256, the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005," cosponsored by Committee Members Senators Hatch and Sessions. This bipartisan legislation addressed significant consumer bankruptcy abuses by implementing a "means test" to prevent debtors with the ability to repay their debts from using bankruptcy law as a financial planning tool.

The means test is a needs-based formula applied by a trustee to determine whether Chapter 7 debtors whose incomes exceed the state median income are able to repay a significant portion of their debts. To determine whether a debtor can repay, the trustee takes the debtor's monthly income and subtracts applicable expenses as specified by the IRS,[2] including "other necessary expenses" (e.g. medical care), as well as monthly payments toward secured debts and priority claims (e.g. child support). After applying this formula, if a Chapter 7 debtor is left with at least $100 in disposable income per month, a presumption arises that the filing is abusive. Unless the debtor rebuts the presumption by showing "special circumstances" that warrant additional expenses or income adjustment, the court must either dismiss the petition or convert the matter into a Chapter 13 bankruptcy, which requires debtors to adopt a plan for partially repaying their debts.

Other major components of the Act include provisions that: prioritize the collection and payment of spousal and child support in bankruptcy cases by giving these claims the highest payment priority; require debtors to receive a minimum amount of credit counseling from a nonprofit credit counseling agency within 180 days prior to filing bankruptcy to determine if they might be able

[2] These include expenses for food, clothing, housing, and transportation as well as certain educational expenses for the debtor's children.

to work out their debt problems with some additional help; allow the court to reduce an unsecured creditor's claim by up to 20% if a debtor can prove that the creditor unreasonably refused to negotiate a reasonable repayment plan; require debtors who do file for bankruptcy to attend a course on financial management to avoid financial difficulties in the future; require credit card statements to include late payment disclosures and minimum payment warnings with estimates as to how long it would take customers to pay their existing balance making only the minimum payment; and strike at the most prominent abuses concerning the unlimited homestead exemption (known by some as the "mansion loophole") to address debtors who move to a state with an unlimited homestead exemption immediately prior to filing bankruptcy.

On February 10, 2005, the Committee convened a hearing to revisit the issues surrounding bankruptcy reform. On February 17, 2005, the Committee reported out S. 256. One note of significance is that, at this time, Chairman Specter had been diagnosed with Stage IVB Hodgkin's disease. Nevertheless, at the request of Chairman Specter and under the guidance of Senator Hatch, the Committee reported the legislation for full Senate consideration. Despite the diagnosis and subsequent treatment for his cancer, Chairman Specter was able to manage the bill on the Senate floor and to steer it to final passage.

During the Committee's executive business meeting, the Committee accepted the following amendments: (1) an amendment offered by Senator Kennedy to add health and disability insurance and health savings account expenses for the debtor and dependents as allowable monthly expenses under the means test; (2) an amendment offered by Senator Kennedy imposing standards and limitations for court approval of executive retention bonuses and severance pay; (3) an amendment offered by Ranking Member Leahy to make non-dischargeable any liability for violation of a federal securities law regardless of whether the liability arises before, during, or after the bankruptcy filing; (4) an amendment offered by Senator Kennedy to direct the U.S. Trustee to move for appointment of a Chapter 11 bankruptcy trustee when there are reasonable grounds to suspect members of the debtor's governing body have participated in fraud, dishonesty, or criminal conduct in the management of the debtor or its public financial reporting; and (5) an amendment offered by Senator Feingold to provide for an inflation adjustment regarding venue.

During the amendment process on the floor, the Senate adopted the following amendments: (1) an amendment offered by Senator Sessions to ensure that the Act's safe harbor provision applies to debtors who have serious medical conditions, those who have been called or ordered to active duty in the Armed Forces, or those who are low income veterans; (2) an amendment offered by Ranking Member Leahy to restrict access to certain personal information in bankruptcy documents; (3) an amendment offered by Senator Feingold to include certain provisions in the triennial inflation adjustment of dollar amounts; (4) an amendment offered by Senator Feingold to authorize the sealing and expunging of court records relating to fraudulent involuntary bankruptcy petitions; (5) an amendment offered by Senator Feingold to improve the credit counseling

provision; (6) an amendment offered by Senator Durbin to protect disabled veterans from means testing in bankruptcy under certain circumstances; (7) an amendment offered by Senator Talent to deter corporate fraud and prevent the abuse of State self-settled trust law; and (8) an amendment offered by Chairman Specter to increase bankruptcy filing fees to pay for the additional duties of United States trustees and the new bankruptcy judges added by the Act. Chairman Specter's amendment addressed an issue brought to the Committee's attention: the Act was subject to a potential budget point of order because the Act created $45 million in direct spending for 26 new judgeships and created a federal net loss to the Treasury due to an increase in the allocation percentages for the disbursement on bankruptcy filing fees in the amount of $226 million over five years. The amendment offset the amount in direct spending for the new judges and the net revenue loss to the Treasury by increasing Chapter 7 and 11 bankruptcy filing fees.

The Senate passed S. 256 on March 10, 2005 by a vote of 74–25, and the House passed it with no amendments on April 14, 2005 by a vote of 302–126. President Bush signed the bill into law on April 20, 2005 (PL 109–8).

S. 167, FAMILY ENTERTAINMENT AND COPYRIGHT ACT OF 2005

On January 25, 2005, Senator Hatch introduced S. 167, the "Family Entertainment and Copyright Act of 2005," which served as a small omnibus of intellectual property bills related to protecting the copyright and trademarks of movies. Original cosponsors included Ranking Member Leahy and Senators Cornyn and Feinstein.

The Act contains four separate titles: the Family Entertainment and Copyright Act of 2005, the Family Movie Act of 2005, the National Film Preservation Act (which contained the text of the National Film Preservation Act of 2005 and the National Film Preservation Foundation Reauthorization Act of 2005), and the Preservation of Orphan Works Act. Title I of the Act criminalizes and provides penalties for the unauthorized, knowing use or attempted use of a recording device to transmit or make a copy of a copyrighted movie in a movie theater. Title II exempts from copyright infringement the making of certain private home copies of copyrighted works and the providing of technology to enable such copies as long as they are purely for private home entertainment. Title III contains several provisions related to the National Film Preservation Act of 1996, including an expanded use of the National Film Registry seal and language directing the Librarian of Congress to properly store and record preserved films. It also reauthorizes the National Film Preservation Foundation and authorizes the appropriation of funds for the Foundation. Finally, Title IV provides that the limitation on rights of reproduction and distribution of copyrighted works does not apply to the authority of libraries or archives to reproduce, distribute, display, or perform a copy or phono-record of such work for purposes of preservation, scholarship, or research when certain conditions apply. The lifting of this limitation only applies, though, in the last twenty years of the term of a copyright.

On February 1, 2005, the Senate discharged S. 167 from the Judiciary Committee and passed the bill by unanimous consent. The bill passed the House by voice vote on April 19, 2005, and President Bush signed S. 167 into law on April 27, 2005 (PL 109–9).

S. 1699 AND H.R. 32, STOP COUNTERFEITING IN MANUFACTURED GOODS ACT OF 2005

On September 14, 2005, Chairman Specter introduced S. 1699, the "Stop Counterfeiting in Manufactured Goods Act of 2005," amending provisions of the U.S. Code (18 U.S.C. 2320) prohibiting trafficking in goods and services bearing a counterfeit mark and making it illegal to traffic in labels, patches, or stickers bearing a counterfeit mark, or any item to which such items have been applied. The bill's Committee cosponsors included Ranking Member Leahy and Senators Brownback, Cornyn, DeWine, Feingold, Hatch, Coburn, Durbin, Feinstein, and Kyl.

The bill responded to a Tenth Circuit Court of Appeals decision that overturned the conviction of a business operator who supplied counterfeit labels that were later attached to generic products by a third party. *United States* v. *Giles*, 213 F.3d 1247 (10th Cir. 2000) (defendant manufactured counterfeit Dooney & Bourke labels that were later affixed to generic purses by a third party). The Tenth Circuit ruled that persons who sell counterfeited trademarks that are not actually attached to any "goods or services" do not violate the federal criminal trademark infringement statute. Since the defendant simply manufactured and distributed a counterfeit label that was unattached to any goods (here the generic purses), the defendant did not run afoul of the criminal statute as a matter of law.

The Bureau of Customs and Border Protection estimates that counterfeit trafficking costs U.S. businesses as much as $200 billion a year. The Act effectively strengthens U.S. trademark law by closing the loophole in federal anti-counterfeiting law apparently made by the *Giles* decision and by prohibiting the trafficking in any item bearing a counterfeit mark, including items that could later be attached to "goods or services." The legislation also enables trade negotiators to demand greater protections for U.S. trademarks in international trade agreements by providing for mandatory pre- conviction forfeiture and destruction of items bearing or consisting of a counterfeit mark, such as the goods themselves or castes and moldings used to produce such counterfeit marks. Finally, the bill ensures that counterfeit businesses cannot restart their business in another location by providing for the forfeiture and destruction of any property derived from or used to engage in a counterfeiting business.

On November 3, 2005, the Committee reported S. 1699 with an amendment negotiated by Chairman Specter and Ranking Member Leahy making technical and clarifying changes to the bill. The bill passed the Senate by unanimous consent on November 10, 2005. Although the House took no final action on S. 1699, it took action on a companion bill H.R. 32, the "Stop Counterfeiting in Manufactured Goods Act of 2005," sending it to the Senate on May 23, 2005.

After Senate-House negotiations, the Senate discharged H.R. 32 from the Judiciary Committee and sought to pass it by unanimous consent, as long as the House agreed to take amended language passed by the Senate. On February 15, 2006, the Senate passed H.R. 32 including the previously Senate-passed language of S. 1699 as well as S. 1095, the "Protecting American Goods and Services Act of 2005," introduced by Senator Cornyn and Ranking Member Leahy. On March 7, 2006, the House took up and passed the modified version of H.R. 32. President Bush signed H.R. 32 into law on March 16, 2006 (PL 109–181).

S. 1095, PROTECTING AMERICAN GOODS AND SERVICES ACT OF 2005

On May 20, 2005, Senator Cornyn and Ranking Member Leahy introduced S. 1095, the "Protecting American Goods and Services Act of 2005," which strengthened criminal provisions of the U.S. Code (18 U.S.C. 2320) for trafficking in counterfeit trademarked goods. The legislation addresses gaps in U.S. anti-counterfeiting laws in the federal trademark code. Specifically, it sought to alleviate the difficulty U.S. prosecutors have had when determining what actions constitute criminal counterfeiting activity.

The Act makes it a crime to possess counterfeit goods with the intent to distribute, to take compensation other than money in exchange for counterfeit goods, or to import or export unauthorized copies of copyrighted works or counterfeit goods to or from the United States. The bill was a natural complement to S. 1699, the "Stop Counterfeiting in Manufactured Goods Act of 2005." Taken together, the two bills have effectively closed most of the outstanding gaps in the anti-counterfeiting provisions of the criminal code.

The Committee reported the bill on November 3, 2005, and S. 1095 passed the Senate by unanimous consent on November 10, 2005. Although the House did not act on S. 1095 as a stand-alone bill, the text of the legislation was incorporated into H.R. 32, the "Stop Counterfeiting in Manufactured Goods Act of 2005," on the Senate floor and passed the Senate on February 15, 2006. On March 7, 2006, the House took up and passed the text of the bill as part of H.R. 32. President Bush signed H.R. 32, and the incorporated language of S. 1095, into law on March 16, 2006 (PL 109–181).

S. 2557, OIL AND GAS INDUSTRY ANTITRUST ACT OF 2006

In the wake of sharply rising gasoline prices and record oil industry profits, the Committee undertook to scrutinize the practices of the domestic oil industry. On April 6, 2006, Chairman Specter and Ranking Member Leahy introduced S. 2557, the "Oil and Gas Industry Antitrust Act of 2006," which sought to strengthen antitrust enforcement with respect to the petroleum and natural gas industry. Senators DeWine and Kohl cosponsored the legislation along with Committee Members Senators Feinstein and Durbin.

The bill proposed to amend the Clayton Act to make it unlawful for any person to refuse to sell, or to export or divert, existing supplies of petroleum, gasoline, or other fuel derived from petroleum, or natural gas, with the primary intention of increasing prices or creating a shortage in a geographic market. If enacted, the bill

would require the Attorney General and the Chairman of the Federal Trade Commission (FTC) to study, and report to Congress on, whether section 7 of the Clayton Act should be modified with respect to its application to persons engaged in the business of exploring for, producing, refining, or otherwise processing, storing, marketing or selling petroleum, gasoline or other fuel derived from petroleum or natural gas.

In addition, the bill included provisions directing the Comptroller General to study and report upon the effectiveness of divestitures required by the government as a condition of approving prior oil and gas industry mergers. The FTC and Justice Department would be required to review the resulting report and determine whether any additional divestitures or conditions should be imposed retroactively on the parties to past oil and gas industry mergers. The FTC and Justice Department would also be required to establish a joint federal-state task force to investigate information sharing among competitors in the oil and gas industry.

Finally, the bill incorporated S. 555, the "No Oil Producing and Exporting Cartels Act (NOPEC)," introduced by Senators DeWine and Kohl. The NOPEC Act, discussed further below, sought to amend the Sherman Act to make it illegal for any foreign state to act collectively with any other foreign state to limit oil production or distribution, to set or maintain the price of oil, or to take any other action in restraint of trade for oil, natural gas, or any petroleum product.

The Committee held two hearings to examine increased concentration and anticompetitive practices in the oil and gas industry. The hearings involved testimony by industry leaders, academics in the field of antitrust law, consumer advocates, state attorneys general, antitrust practitioners, economists, an FTC Commissioner and Members of Congress.

The Committee reported the bill on April 27, 2006 by voice vote. The full Senate, however, did not take further action on the bill.

S. 555, NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2005

On March 8, 2005, Senators DeWine and Kohl introduced S. 555, the "No Oil Producing and Exporting Cartels Act of 2005" (NOPEC), cosponsored by Chairman Specter, Ranking Member Leahy, and Senators Durbin, Grassley, Coburn, Feingold, and Schumer. Courts have held that OPEC's cartel activities are immune from prosecution under the Foreign Sovereign Immunities Act ("FSIA") and the so-called "act of state" doctrine, which prevents federal courts from considering cases that would require them to judge the legality of sovereign acts taken by a foreign nation. The NOPEC Act sought to amend the Sherman Antitrust Act by making it illegal for foreign states to engage in collusive behavior with any other foreign state or person to limit the production or distribution, set or maintain the price, or otherwise act in restraint of trade, with regard to oil or petroleum products. The change would allow both the Department of Justice and the Federal Trade Commission to enforce the U.S. antitrust laws against OPEC member nations.

Specifically, the NOPEC Act would amend FSIA so that OPEC nations would be subject to U.S. jurisdiction. Currently, FSIA argu-

ably provides immunity to foreign states from actions that are governmental as opposed to commercial activities. In 1979, a federal district court held that OPEC's cartel activity was governmental activity and therefore immune from prosecution.

Further, the NOPEC Act expressly states that the "act of state" doctrine does not bar suits against nations participating in an oil cartel, thus permitting U.S. federal courts to consider lawsuits against OPEC members. This language would reverse a 1981 federal court of appeals decision declining to hear a case against OPEC based on the "act of state" doctrine.

Senators DeWine and Kohl first introduced the NOPEC Act on June 21, 2000, during another period of rapidly increasing gasoline prices. During the 109th Congress, the Committee reported the NOPEC Act by voice vote on April 14, 2005. On June 21, 2005, in the wake of spiking oil prices, the Senate agreed by voice vote to amend H.R. 6, the "Energy Policy Act of 2006," with the NOPEC Act. Subsequently, however, the legislation was stripped from H.R. 6 during conference and no further action was taken.

S. 1789, PERSONAL DATA PRIVACY AND SECURITY ACT OF 2005

Early in 2005, reports surfaced that dozens of companies and government agencies had experienced data breaches involving the loss of personal information of hundreds of thousands of individuals across the nation. In particular, in early February 2005, data broker ChoicePoint Inc. reported that hackers had accessed its databases, which contained the personal data of 145,000 individuals. The breaches only came to light after California became the first state to pass legislation requiring companies to give individuals notice in the event of a data breach involving their personal data.

The Committee held a hearing to consider the problem of data breaches and data security. During the hearing, the Committee heard testimony from data broker industry executives, privacy advocates, law enforcement and a state attorney general. On June 29, 2005, Chairman Specter and Ranking Member Leahy introduced S. 1332, the original version of the "Personal Data Privacy and Security Act of 2005," cosponsored by Senator Feingold.

The bill contained provisions increasing criminal penalties for identity theft that involves electronic personal data. In addition, to encourage companies to provide notice to individuals and law enforcement in the event of a breach, the bill would make it a crime for a person who knows of a security breach and of the obligation to give notice to intentionally and willfully conceal the fact of the breach if such concealment causes economic damages. To enhance individual privacy and security awareness, data brokers would be required to give individuals access to their own sensitive personal information. If individuals came forward with evidence that their personal information is incorrect, the data broker would be compelled either to correct the information or to notify the individual of the source of the information.

The bill placed special emphasis on encouraging companies and government agencies to maintain good security practices with respect to personal data. Entities maintaining large amounts of electronic personal data were required to assess any risks to personal

data and to establish internal policies to protect it. The FTC would have authority to impose requirements modeled after the Gramm-Leach-Bliley implementing regulations that apply to personal data kept by financial institutions.

The centerpiece of the bill would require entities that experience a breach involving electronic personal data give notice to affected individuals. To trigger notice, there must be reason to believe that an unauthorized person has accessed the personal data. In addition, if a company or government agency concluded that there is no significant risk of harm as a result of a breach, the bill only required that notice be given to the Secret Service. If the Secret Service similarly concludes that there is no significant risk of harm, the entity does not have to give notice to individuals. Finally, federal agencies would be required to establish procedures for evaluating and auditing the personal data security practices of data brokers with whom they have contracts.

After introduction, the Finance Committee expressed interest in taking up the issue of protecting social security numbers. As a result, provisions restricting the use of social security numbers for identification purposes were removed from the bill for further consideration by the Finance Committee. On September 29, 2005, the bill's supporters reintroduced the "Personal Data Privacy and Security Act of 2005" as S. 1789, which gained the additional cosponsorship of Senator Feinstein.

The Committee reported S. 1789 by voice vote on November 17, 2005, but the full Senate took no action. At least two other Senate Committees also considered data security legislation during the 109th Congress.

S. 443, ANTITRUST CRIMINAL INVESTIGATIVE IMPROVEMENTS ACT OF 2005

On February 17, 2005, Senator DeWine, Ranking Member Leahy, and Senator Kohl introduced S. 443, the "Antitrust Criminal Investigative Improvements Act of 2005." The Act amends the federal criminal code to make violation of the Sherman Act a predicate offense for purposes of obtaining an order authorizing the interception of wire or oral communications. The legislation permits the Department of Justice, upon a showing of probable cause, to obtain a wiretap order allowing the Department to monitor communications between conspirators.

In criminal antitrust investigations, it is critical that prosecutors gain access to evidence on the inner workings of the alleged conspiracy. To meet their burden of proof, prosecutors must marshal strong evidence regarding the participants in the conspiracy, the nature of their participation, and the terms of the illegal agreement. The Act permits the Justice Department to obtain such evidence during the investigation of criminal antitrust violations.

Prior to passage of the legislation, the Department of Justice had two primary techniques for investigating criminal antitrust conspiracies. First, it could enlist the cooperation of a witness who would testify about the details of the conspiracy or consensually record conversations. Second, through the Antitrust Division's "corporate leniency program," an otherwise guilty corporation could receive lenient treatment in exchange for fully cooperating with the

investigation. However, both of these techniques depended upon the cooperation of someone inside the conspiracy, which was too often unavailable.

There are over 150 predicate offenses for wiretaps within Title 18 and dozens of other predicate offenses from other parts of the U.S. Criminal Code. Offenses such as wire fraud, mail fraud, and bank fraud are predicate offenses, but until now, criminal antitrust offenses have not been on the list, despite the fact that penalties for such offenses are similar. Criminal antitrust offenses are essentially white-collar fraud offenses and often do much more harm to consumers than other types of fraud offenses. The Committee concluded that, given the gravity of the crime, antitrust needed to be added as a predicate offense.

The Committee reported the bill by voice vote with no amendments on October 20, 2005. Five days later, the Senate passed the bill as reported by unanimous consent. The bill was subsequently included in the Conference Report for H.R. 3199, the "USA PATRIOT Improvement and Reauthorization Act of 2005." The House passed H.R. 3199 on December 14, 2005. The Senate passed the legislation on March 3, 2006. President Bush signed the bill, including the "Antitrust Criminal Investigative Improvements Act of 2005," into law on March 9, 2006 (PL 109–177).

H.R. 683, TRADEMARK DILUTION REVISION ACT OF 2006

On February 15, 2005, Congressman Lamar Smith introduced H.R. 683, the "Trademark Dilution Revision Act of 2006," amending section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) to revise outdated provisions relating to trademark dilution.

The legislation responds to *Moseley* v. *V Secret Catalogue, Inc.,* 537 U.S. 418 (2003), in which the Supreme Court addressed the standard of proof for a dilution claim. The Supreme Court stated that a dilution action can only be sustained upon a showing of "actual dilution" of a mark. Although this term was not defined explicitly by the Court, it appeared to require a showing that the mark has been measurably diluted. Trademark owners argue that this interpretation of the Federal Trademark Act of 1946 is at odds with congressional intent to stop dilution of a mark before measurable harm has occurred. They argue that by the time "actual dilution" has been done to the mark, measurable harm has already occurred.

The legislation represents the culmination of two years of negotiations between interested parties to clarify the meaning of trademark dilution. The legislation addresses a split in the circuit courts as to what constitutes a "famous mark" that has resulted from the failure to define the term in the Lanham Act.

H.R. 683 addresses the *Moseley* decision by entitling the owner of a "famous mark" to injunctive relief against another person who uses the mark in a manner that is likely to cause the mark to be diluted by blurring or tarnishing. The owner of the mark may obtain injunctive relief regardless of whether there is actual or likely confusion, competition, or actual economic injury. The Act addresses existing circuit splits by defining the term "famous mark." It requires courts to consider a number of factors when determining whether a mark is famous or whether a mark is likely to cause di-

lution by blurring. In addition, the Act allows the owner of a mark to seek remedies in addition to injunctive relief if the person against whom injunctive relief is sought did not use the mark prior to the date of the bill's enactment and if the person willfully intended to trade on the famous mark or dilute the mark by blurring or tarnishing.

The House passed H.R. 683 on April 19, 2005. Once the bill was referred to the Senate Judiciary Committee, Committee Members' offices received objections to the bill from a variety of outside groups, including Internet search engines, the American Civil Liberties Union, and retailers of low cost goods. To address these concerns, Chairman Specter along with Ranking Member Leahy and Senator Hatch sought a compromise agreement between the trademark owners and concerned outside groups. This agreement was reached and embodied in a substitute amendment reported out of the Committee on February 16, 2006. The Senate passed the bill by unanimous consent on March 8, 2006. Once received, the House accepted the Senate amendment and passed the bill on September 25, 2006. President Bush signed H.R. 683 into law on October 6, 2006 (PL 109–312).

H.R. 1036, COPYRIGHT ROYALTY JUDGES PROGRAM TECHNICAL CORRECTIONS ACT

On March 2, 2005, Congressman Lamar Smith introduced H.R. 1036, the "Copyright Royalty Judges Program Technical Corrections Act," amending portions of the Copyright Royalty and Distribution Reform Act of 2004. The bill responded to a call by the copyright community and Copyright Office to clarify the Copyright Royalty Judges Program. In addition to making purely technical corrections such as spelling errors, the Act clarifies timelines for actions taken by the Copyright Royalty Judges; provides the authorization needed by the Copyright Royalty Judges or the Library of Congress for certain regulatory actions; and requires the Copyright Royalty Judges to act in accordance with the Administrative Procedures Act. The statutory changes adhere to the original intent of the Act and enjoyed the wide support of the Copyright Office, the Copyright Royalty Judges, and copyright holders. The House passed the bill on November 16, 2005.

Once referred to the Senate Judiciary Committee, Committee Members' offices received requests to amend H.R. 1036 in order to incorporate language governing when the Copyright Royalty Judges can distribute royalties prior to the commencement of royalty proceedings. In response to concerns expressed by content holders, Chairman Specter along with Senator Hatch and Ranking Member Leahy negotiated an amendment with the Members of the House, content holders, and the Copyright Royalty Judges. The amendment allows the Copyright Royalty Judges to make a partial distribution of royalties prior to the institution of a proceeding. The amendment: (1) retained the discretion of the Copyright Royalty Judges in current law to decide whether to make a partial distribution; (2) provided all claimants and the general public with a thirty-day notice period to respond to a motion to institute a partial distribution, guaranteeing due process; and (3) required the Copyright Royalty Judges to consider only the responses filed in a time-

ly manner and to base their decisions on the arguments and evidence included within the responses. The language did not require that there be unanimity among all the respondents or even all the claimants to institute a partial distribution of fees. The unanimity requirement, present in earlier drafts of the amendment, was taken out at the request of the copyright holders in response to their voiced concerns that it would effectively prohibit them from ever instituting a partial distribution.

On July 13, 2006, the Committee reported out H.R. 1036 as amended. The Senate passed the Act on July 19, 2006 by unanimous consent. The House agreed to the Senate amendment on September 25, 2006, and President Bush signed H.R. 1036 into law on October 6, 2006 (PL 109–303).

H.R. 866, TECHNICAL CORRECTIONS BILL TO THE UNITED STATES CODE

H.R. 1442, TECHNICAL CORRECTIONS TO TITLE 46

H.R. 866 and H.R. 1442 were prepared by the Office of the Law Revision Counsel of the House of Representatives, an independent, non-political office, required by law to maintain impartiality as to issues of legislative policy. See 2 U.S.C. 285a. The office is responsible for maintaining and improving the United States Code, especially positive law titles of the Code. These bills did not propose any substantive change in existing law. Because positive law titles of the United States Code are actually federal statutes, legislation is required to correct even the smallest technical errors in text.

The changes made by H.R. 866 are purely technical in nature and relate to cross references, typographical, and stylistic matters (e.g. capitalization) in titles 10 (Armed Forces), 23 (Highways), 28 (Judiciary and Judicial Procedure), 36 (Patriotic and National Observances, Ceremonies and Organizations), and 40 (Public Buildings, Property, and Works) of the United States Code. On September 7, 2006 the Committee reported House-passed H.R. 866 without amendment. The Senate passed it by unanimous consent on September 12, 2006, and President Bush signed the bill into law on September 27, 2006 (PL 109–284).

Title 46 of the United States Code had been partially enacted as positive law, but Title 46 included an appendix of laws that have not been enacted as positive law. H.R. 1442 reorganized and rewrote the provisions in the appendix for enactment as part of the title. Specifically, the bill made technical and conforming amendments and set forth requirements with respect to: (1) documentation of vessels; (2) maritime liability; (3) regulation of ocean shipping, including shipping in foreign trade; (4) the Merchant Marine and the Merchant Marine Service; (5) clearance of, and tonnage taxes and duties levied against, vessels; (6) maritime security and drug enforcement; (7) vessel wrecks and salvage; (8) ice patrol and the destruction or removal of vessel derelicts; (9) safe containers for international cargo; and (10) the Maritime Administration in the Department of Transportation. The bill was strongly supported by the Department of Transportation (which includes the Maritime Administration), the Federal Maritime Commission, and the Maritime Law Association of the United States, which represents much of the private maritime bar.

On September 7, 2006 the Committee reported the House-passed H.R. 1442 without amendment. The Senate passed it by unanimous consent on September 13, 2006, and the President signed it into law on October 6, 2006 (PL 109–304).

B. CRIMINAL LAW ISSUES

S. 1086 AND H.R. 4472, SEX OFFENDER AND INTERNET SAFETY LEGISLATION

The Committee considered a number of bills that addressed sex offenders, child safety, and Internet safety. Many of these bills were ultimately combined, in whole or in part, with other child safety provisions to form H.R. 4472, the "Adam Walsh Child Protection and Safety Act of 2006," which ultimately became law. Among the component bills referred to the Committee were S. 1086, the "Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Grant Act," S. 3499, the "Internet Safety (Stop Adults Facilitating the Exploitation of Youth) Act of 2006," and S. 3432, the "Project Safe Childhood Act."

The core of the Adam Walsh Act was the National Sex Offender Registry, which was initially referred to the Committee in the form of S. 1086 introduced by Senator Hatch and cosponsored by Committee Members Biden, Grassley, Schumer, Brownback, Cornyn, DeWine, Feinstein, Graham, Kyl, and Sessions. The Registry provisions were designed to establish uniform standards for the registration of sex offenders, including a lifetime registration requirement for the most serious offenders. Prior to passage of the Adam Walsh Act, a gap existed in the law governing how different states track convicted sex offenders. For example, in the period leading up to passage of the Act, the National Center for Missing and Exploited Children estimated that at least 100,000 sex offenders were not accounted for by law enforcement.

Just as the original congressional attempt to create a sex offender registry on a state-by-state basis was influenced by the disappearance of Jacob Wetterling, and just as the 1996 creation of a sex offender notification program was influenced by the murder of Megan Kanka, efforts in the 109th Congress were influenced by high-profile and disturbing cases involving murder and rape by convicted sex offenders. Among the cases that influenced debate were those of a murdered Florida nine-year old, named Jessica Lundsford; a kidnapped and murdered North Dakota college student, Dru Sjodin; and an Idaho family murdered by a sex offender who intended to kidnap and abuse the family's children.

In its original form, S. 1086 (the Senate antecedent to the Adam Walsh Act) was regarded by some Senate critics as too harsh in its requirements that states implement the provisions of a sex offender registry or face the loss of federal program funds. A similar concern was voiced regarding the bill's treatment of lower level offenders. Consequently, Senator Hatch offered a pre-negotiated substitute amendment to address these concerns but also to maintain the core of the bill, namely a national sex offender registry that could be searchable by zip code as well as a program of sex offender registration and monitoring. The Committee reported S. 1086 with the

substitute amendment on October 25, 2005, and S. 1086 passed the Senate by unanimous consent on May 4, 2006.

During Senate consideration of S. 1086, the House passed an omnibus crime bill with a sex offender title mirroring the Senate bill, albeit with stronger penalties and tighter restrictions on convicted sex offenders. The original House bill, H.R. 4472, contained enhanced penalties for sex offenders, a national sex offender registry, a court security title, a set of provisions addressing juvenile and gang crime, and a series of miscellaneous provisions dealing with habeas corpus rights and the labeling of indecent materials.

With the passage of two national sex offender registry bills, Committee staff negotiated a compromise bill that addressed the gaps in the current registry and enforcement system, while blending the two products together to form a single bill.

Through these negotiations, a substitute bill was generated that focused on sex offender and child safety issues without including the court security and gang crimes provisions that were in the House bill. The substitute bill contained seven titles. The first title focused on the creation of a National Sex Offender Registry designed to keep track of all sex offender identification, address, employment, vehicle, and other information, as well as a recent photo and information on the offender's criminal history. This title created the Dru Sjodin National Sex Offender Public Website, available to the public to search for sex offender information by geographic radius and zip code.

The second title of the substitute bill focused on enhancing criminal penalties, including increasing mandatory minimum penalties for a number of existing crimes. Such enhancements included mandatory assured penalties for crimes of violence against children, including the possibility of the death penalty for the murder of a child in a federal offense; a mandatory 30 year penalty for anyone who commits aggravated sexual abuse against a child; a mandatory 10 year penalty for sex trafficking offenses involving children and for criminal coercion for child prostitution; and expansion of the federal "two-strikes and you're out" life sentence for repeat sex offenders to apply to offenders who commit sex trafficking offenses.

The third title created civil commitment procedures for sex offenders who, while incarcerated, show that they cannot change their behavior once they are released from prison. The fourth title created immigration limitations on known sex offenders, while the fifth title prevented children from being exploited in pornography, including in simulated sexual activity.

The sixth title of the bill contained grants to address a wide range of problems, including a number of pilot programs and studies to address child and community safety. These provisions ranged from a pilot program for the electronic monitoring of sex offenders, to funding for Big Brothers and Big Sisters, to grants to allow parents to obtain fingerprint records for their children.

The seventh title of the substitute bill focused on Internet safety and included many of the provisions from other pending legislation, including components from S. 3499, the "Internet Safety (Stop Adults Facilitating the Exploitation of Youth) Act of 2006," introduced by Senator Kyl along with Senators Grassley, Cornyn,

Brownback and DeWine. The legislation also included S. 3432, the "Project Safe Childhood Act."

On July 20, 2006, the negotiated bill was offered as a substitute amendment to H.R. 4472. As part of the substitute, the short title of the bill was changed to the "Adam Walsh Child Protection and Safety Act of 2006" to honor the memory John and Revé Walsh's son, who was kidnapped and murdered in 1981 when he was 6 years old. President Bush signed the bill into law on July 27, 2006 (PL 109–248).

S. 1197, VIOLENCE AGAINST WOMEN AND DEPARTMENT OF JUSTICE REAUTHORIZATION ACT OF 2005

On June 8, 2005, Chairman Specter and Senators Biden, along with Ranking Member Leahy and Committee Members Feinstein, Cornyn, DeWine, Durbin, Grassley, Kennedy, Kohl, and Schumer, introduced S. 1197, the "Violence Against Women Reauthorization Act of 2005" (VAWA 2005). VAWA 2005 sought to combat domestic violence through federal and state law enforcement and victims' services grants. The reauthorization was necessary to improve and extend the Violence Against Women Act of 1994, which was scheduled to expire on September 30, 2005.

Between 1993 and 2001, non-fatal violent victimizations committed by intimate partners declined 49 percent for women as reported by the National Crime Victimization Survey. A greater percentage of female rape and sexual assault victims now report these crimes to law enforcement, up from 31 percent in 1995 to 53 percent in 2002. Despite this progress, nearly 25 percent of American women have been raped or physically assaulted by an intimate partner at some point in their lives, and the economic cost of domestic violence, dating violence, sexual assault, and stalking exceeds $5.89 billion each year. VAWA 2005 capitalized on the past decade's success in the battle against domestic violence while taking the next steps to address the continuing threat of all forms of violence against women in a comprehensive manner.

VAWA 2005 provided funding to federal and state law enforcement officers, who are often the first responders in cases of domestic violence, and to victims' services providers who deliver essential services to victims and their children. VAWA 2005 also focused on prevention, enabling courts to better handle domestic violence cases, bolstering the effectiveness of criminal stalking laws, and enhancing criminal penalties for repeat offenders. Further, VAWA 2005 broadened the traditional focus on domestic violence to address the problems of dating violence, sexual assault, and stalking. In consideration of budgetary constraints, VAWA 2005 made modest increases in funding-increasing authorizations by 17.3 percent above the levels authorized in VAWA 2000, a modest increase when compared to the 77 percent increase in the VAWA 2000 authorization bill.

On July 19, 2005, the full Committee held a hearing on the proposed Violence Against Women Act at which representatives from local law enforcement, victims' service providers and the Director of the Office of Violence Against Women testified.

On September 8, 2005, the Committee approved by voice vote a substitute amendment to VAWA 2005 that responded to comments

from the Health, Education, Labor and Pensions Committee, the Banking Committee, the Indian Affairs Committee, the Department of Justice, the Department of Health and Human Services, and Members of the Judiciary Committee. The substitute amendment decreased authorization levels throughout the bill and addressed concerns regarding public housing programs, immigration provisions, and programs designed to aid Native American women. At the request of Senator Brownback, the substitute amendment also contained language from S. 1618, the "International Marriage Broker Act," to protect women seeking to come to the United States as wives of U.S. citizens by imposing limits on the age and number of women who can be advertised to U.S. clients seeking a foreign wife and by requiring international marriage brokers to inform those women of their future spouse's background and of available resources. In addition, the Committee accepted an amendment by Senator Cornyn that embodied Senator Kyl's DNA Fingerprinting Act, S. 1606. The "DNA Fingerprinting Act of 2005" allowed the Attorney General to collect DNA from criminal suspects at the time of their arrest and made additional grants available to States to reduce the backlog of rape kits and other crime scene evidence awaiting DNA examination.

To prepare the bill for Senate passage, Chairman Specter along with Senators Biden and Hatch worked with Committee Members to prepare a substitute amendment narrowing language regarding immigration and making additional technical changes. On October 4, 2006, the Senate passed S. 1197 with the substitute amendment by unanimous consent.

On September 28, 2005, the House passed its companion bill, H.R. 3402, which included language to authorize the Department of Justice. Subsequently, the Senate VAWA provisions from S. 1197 were appended to a negotiated version of H.R. 3402 in place of the House VAWA provisions. As a corollary, the House provisions reauthorizing the Department of Justice were retained with only minimal modifications to accommodate Senators' requests.

On December 16, 2005, the Senate discharged H.R. 3402 from the Judiciary Committee and passed the negotiated version by unanimous consent. The Department of Justice Reauthorization provisions in the bill represent only the second time since 1980 that the Department's programs and activities have been reauthorized. The reauthorization package contains a number of provisions that will enable the Congress to exercise oversight over the Department of Justice in order to ensure that its programs meet the evolving needs of the country. It also alters grant programs to enhance the ability of States and local governments to use Department of Justice grants effectively and appropriately.

The Department of Justice provisions streamline the grant application process for state and local governments by merging the Byrne Grant and Local Law Enforcement Block Grant Program; extend the matching program for law enforcement bulletproof vests to FY 2009; create a new Office of Weed and Seed Strategies to replace the current Executive Office of Weed and Seed; require that at least 50 percent of the grant be used for Weeding activities under the program; create a new Office of Audit, Assessment, and Management within the Office of Justice Programs to track grant

programs; permit States to use Juvenile Justice Accountability Block Grant funds to establish, improve, and coordinate pre- and post-release programs to facilitate successful juvenile re-entry into the local community and reauthorize the program through 2009; and make technical corrections important to the implementation of Aimee's Law, which redirects federal crime fighting dollars from any State that releases a violent criminal prior to the termination of his sentence to any State in which that prisoner goes on to commit a similar crime.

Following Senate passage, the House passed the negotiated version of H.R. 3402 on December 17, 2006, and on January 5, 2006, President Bush signed it into law (PL 109–162).

EXAMINATION OF THE DEPARTMENT OF JUSTICE'S "THOMPSON MEMORANDUM"

The Committee examined the impact of a January 2003 Department of Justice memorandum issued by former Deputy Attorney General Larry Thompson, which set forth the principles that federal prosecutors should consider when deciding whether to charge a corporation along with its employees. The memorandum, which is commonly referred to as the "Thompson Memorandum," contains two provisions relating to the right to counsel: (1) provisions that have been criticized as effectively forcing corporations under investigation to waive the attorney-client privilege as a condition of avoiding a criminal charge; and (2) provisions that discourage corporations from paying the legal expenses of employees, officers, and directors who are investigated for, or charged with, crimes in connection with their work with the corporation. These provisions have been criticized by the American Bar Association, U.S. Chamber of Commerce, American Civil Liberties Union, Association of Corporate Counsel, National Association of Criminal Defense Lawyers, National Association of Manufacturers, American Chemistry Council, and numerous former Justice Department officials, including former Attorneys General Richard Thornburgh and Edwin Meese, III.

On September 12, 2006, the Committee held a hearing titled, "The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations." The hearing included witness testimony from Deputy Attorney General Paul McNulty, former Attorney General Edwin Meese, and Thomas J. Donohue of the U.S. Chamber of Commerce among others. The hearing detailed the Thompson Memorandum's effect on the principles of the attorney-client privilege and the right to counsel. In his written testimony, Mr. Meese criticized the Thompson Memorandum as "result[ing] in the dilution of essential rights encompassed by the attorney-client relationship." Such a dilution would, Mr. Meese testified at the hearing, "would be a threat to constitutional rights, would be bad policy, unwise practice and would be counter-productive to both compliance with the law and with just criminal proceedings."

The Former Attorney General concluded by recommending that the Thompson Memorandum be amended "to eliminate any reference to the waiver of attorney-client privilege or work-product protections in the context of determining whether to indict a business organization" and to permit a company to pay the legal ex-

penses of its employees. Mr. Meese's recommendations were deemed particularly important given his former role as Attorney General of the United States. In that capacity, he supervised federal prosecutors and was intimately aware of the necessity of defendants to obtain counsel and the government to uncover evidence of wrong-doing.

Following its September hearing, the Committee worked on crafting legislation to reform the Department of Justice's policy regarding waiver of attorney-client privilege and payment of employee legal fees. The bill, the "Attorney-Client Privilege Protection Act of 2006," was introduced on December 7, 2006, as S. 30. Immediately prior to its introduction, representatives from the U.S. Chamber of Commerce, American Civil Liberties Union, and the American Bar Association, including former Attorney General Richard Thornburgh, joined the Chairman at a press conference to endorse the bill.

The Attorney-Client Privilege Protection Act sought to prohibit federal lawyers and investigators from requesting that an organization waive its right to assert the attorney-client privilege or work product doctrine for communications with counsel, internal investigations, and other purposes, or from conditioning any charging decision or cooperation credit on waiver or non-waiver of privilege, the payment of an employee's legal fees, the continued employment of a person under investigation, or the signing of a joint defense agreement. The bill was crafted to recognize the legitimate needs of prosecutors. For example, it would allow organizations to continue offering internal investigation materials to prosecutors, but only if such an offer were entirely voluntary and unsolicited by the prosecutors. The bill would allow prosecutors to seek materials that they reasonably believe are not privileged.

Although the bill was not taken up by the Committee or full Senate, it was highly effective. Just days after the introduction of S. 30, Deputy Attorney General Paul McNulty unveiled a replacement to the Thompson Memorandum in the form of new set of corporate prosecution guidelines. The new memorandum, which was immediatey labeled the McNulty Memorandum, eliminated almost all of the Thompson Memorandum's controversial language regarding attorneys' fees. The McNulty Memorandum also addressed requests for waiver of the attorney-client privilege and work product protections, albeit in a less comprehensive way. Committee staff continued to examine the McNulty Memorandum through the conclusion of the 109th Congress to determine if further legislative or oversight action will be necessary.

S. 1088, STREAMLINED PROCEDURES ACT

The Committee considered how best to clarify, modify, and improve the habeas corpus reforms enacted in the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA). Although AEDPA was designed to prevent unnecessary delays in habeas corpus petitions, according to the Judicial Conference, the median time from filing to the disposition of state capital habeas cases rose from 13 months in 1998 to 25.3 months in 2005. S. 1088, the "Streamlined Procedures Act," was introduced by Senator Kyl along with Senators Grassley, Cornyn, and Hatch. It was crafted to reduce delays

created by state prisoners' habeas corpus petitions and to enforce the one-year statute of limitations for federal habeas petitions by, for example, barring amendments to petitions unless they contain meaningful evidence to support innocence. The bill also proposed time limits on the Court of Appeals' review of federal habeas petitions.

The Committee held two hearings on habeas corpus reform, which examined options to improve efficiency of habeas cases without limiting the availability of habeas corpus for claims of actual innocence. S. 1088 appeared on the agenda continuously from June 20, 2005 until November 17, 2005. On July 28, 2005, Chairman Specter offered a substitute amendment to allow federal judges to hear claims of procedural flaws, notwithstanding the state court's determination that the procedural flaws constituted harmless error. The substitute was accepted by a vote of 10–1, with Senator Feinstein voting nay and all other Democrats abstaining. Habeas legislation was considered again on October 6, 2005, when Senator Feinstein offered a new substitute amendment that would have replaced the entire bill with a requirement that the Judicial Conference study habeas corpus procedures and practice. The Feinstein amendment was rejected by a 10–8 party line vote.

The Senate took no further action on either proposal for habeas corpus reform in the 109th Congress.

S. 2560, H.R. 2829 & H.R. 6344, OFFICE OF NATIONAL DRUG CONTROL POLICY REAUTHORIZATION ACT OF 2006

On April 6, 2006, Chairman Specter, along with Senators Biden, Grassley and Hatch, introduced S. 2560, the "Office of National Drug Control Policy Reauthorization Act of 2006." The Office of National Drug Control Policy ("ONDCP") was most recently reauthorized in 1998 but has been without Congressional authorization since 2003 despite having received funding in 2004 and 2005.

ONDCP, a component of the Executive Office of the President, was established by the Anti-Drug Abuse Act of 1988. ONDCP sets policies, priorities, and objectives for the nation's drug control program. The key goals of the program are to reduce illicit drug use, manufacturing, trafficking, drug-related crime and violence, and drug-related health consequences. To achieve these goals, the Director of ONDCP, commonly referred to as the nation's "Drug Czar," is charged with producing the National Drug Control Strategy, which directs the nation's anti-drug efforts and establishes a program, budget, and guidelines for cooperation among federal, state, and local entities. The Director of ONDCP also evaluates, coordinates, and oversees international and domestic anti-drug efforts of Executive branch agencies and ensures that such efforts sustain and complement State and local anti-drug activities. The Director advises the President regarding changes in the organization, management, budget, and personnel of federal drug control agencies.

S. 2560 authorized funding for ONDCP through 2010 and sought to: (1) better organize ONDCP and define its roles and responsibilities including the preparation of the National Drug Control Strategy; (2) ensure the High Intensity Drug Trafficking Areas Program remains within ONDCP instead of being transferred to the Justice

Department as recently proposed; (3) improve the Counterdrug Technology Assessment Center; (4) improve the National Youth Anti-Drug Media Campaign; (5) create a United States Anti-Doping Agency; (6) reauthorize the Drug Free Communities grant program; (7) create National Guard Counterdrug Schools; (8) create a National Methamphetamine Information Clearinghouse within the Justice Department; and (9) require Congressional reporting and studies on a variety of subjects.

On May 25, 2006, the Committee reported S. 2560 by unanimous consent. The House overwhelmingly passed its ONDCP reauthorization bill, H.R. 2829, in March 2006. In the weeks prior to the October recess, efforts were made between Senate and House staff to negotiate a compromise version, containing portions of S. 2560 and the House-passed version H.R. 2829.

The result of these negotiations was H.R. 6344, a compromise version of the Office of National Drug Control Policy Reauthorization Act of 2006. H.R. 6344 was passed by the House of Representatives on December 7, 2006, and was passed by the Senate the following day, December 8, 2006. The White House received the bill on Tuesday, December 19, 2006 and as of the submission of this report, the bill awaits President Bush's signature.

S. 1934, SECOND CHANCE ACT OF 2005

Chairman Specter, along with Senators Brownback, Biden, DeWine, Feinstein, Schumer, Durbin, Hatch, and Kyl, introduced S. 1934, the "Second Chance Act," on October 27, 2005. Nearly two-thirds of the 7,000,000 State and local prisoners and 650,000 federal prisoners who are released from prison every year will be rearrested for a felony or a serious misdemeanor within three years after release. Programs aimed at providing these offenders with the basic literacy, educational, job training and life skills needed to succeed in society have proven highly effective at decreasing recidivism rates by as much as 33 percent.

The Second Chance Act would increase authorizations for existing federal prisoner reentry programs, provide additional grants for non-profit organizations that work with ex-offenders who are reentering society, and require the Bureau of Prisons to enhance its efforts to encourage successful transitions for federal offenders. The bill sought to address the problems that frequently lead to recidivism by increasing access to jobs, ensuring better educational opportunities for adult and youth offenders, and providing support for families of ex-offenders. These grant programs focus on measurable results, requiring at least a 10% reduction in recidivism among program participants in order for a program to continue receiving funding. The Second Chance Act would also authorize grants for non-profit organizations that provide mentoring and reentry services. Such mentoring services, which often begin in prison and continue as the offender transitions from prison to the community, have proven highly successful in encouraging employment and abstinence from drugs and alcohol, and in decreasing recidivism rates.

In July 2006, the House Judiciary Committee reported a prisoner reentry bill by voice vote. Subsequently, the Senate and House Judiciary Committees worked together to negotiate a compromise

version of the Second Chance Act. In addition to the reentry provisions contained in the Senate bill, the compromise version contained grant programs from the House bill designed to provide ex-offenders with effective drug and alcohol treatment. Like education and job training programs, drug treatment programs have proven highly effective in discouraging ex-offenders from becoming re-involved in crime upon their release from prison.

The Judiciary Committee held a hearing on September 19, 2006, titled the "Cost of Crime" at which the Director of the Bureau of Prisons testified. The hearing focused on the pecuniary and non-pecuniary costs of crime (estimated by one witness to be on the order of $3 trillion annually) and on the ability of reentry programs to decrease this cost by reducing recidivism rates. The Subcommittee on Corrections and Rehabilitation, chaired by Senator Coburn, also held a hearing on September 21, 2006, titled "Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States."

Chairman Specter sought several unanimous consent agreements on negotiated versions of Second Chance Act, but no agreement was reached, and the full Senate did not act on the legislation.

H.R. 6338, THE GENEVA DISTINCTIVE EMBLEMS PROTECTION ACT OF 2006

On December 5, 2006, Representative Jeff Flake and thirty-four co-sponsors introduced H.R. 6338, the Geneva Distinctive Emblems Protection Act of 2006, which criminalizes the fraudulent use of the Red Crescent or Red Crystal symbols.

In December of 2005, the Diplomatic Conference adopted the Third Additional Protocol to the 1949 Geneva Conventions, creating a new emblem (the Red Crystal) associated with the International Red Cross and Red Crescent Movement. The creation of the Red Crystal cleared the path for acceptance of Magen David Adom (Israel's "red Shield of David") into the Red Cross and Red Crescent Movement after fifty-seven years of attempting to gain membership. On September 29, 2006, the Senate approved for ratification the Third Additional Protocol to the Geneva Conventions.

H.R. 6338 authorizes and implements the Third Additional Protocol to the Geneva Convention by amending the federal criminal code to prohibit the wearing or displaying of the Red Crescent or Red Crystal for the fraudulent purpose of claiming membership in an authorized national society. It authorizes the use of the Red Crescent or Red Crystal solely by the International Federation of the Red Cross and Red Crescent Societies, and the medical facilities of the armed forces of members to the Geneva Conventions.

H.R. 6338 passed the House under a suspension of the rules on December 5, 2006. The bill was then received in the Senate where it was held at the desk and passed by unanimous consent on December 8, 2006. As of the submission of this report, the bill awaits President Bush's signature.

H.R. 4709, TELEPHONE RECORDS AND PRIVACY PROTECTION ACT OF 2006

On January 18, 2006, Chairman Specter and Senator Schumer introduced S. 2178, the Telephone Records and Privacy Protection Act of 2006. Introduction of the bill was prompted by revelations

in the press that consumer cellular telephone records, including phone numbers dialed, calls received and call location, were being bought and sold on the Internet, and much of the information was being obtained through fraud. Criminals can use phone records to commit identity theft and other financial fraud, domestic violence, as well as to hinder law enforcement operations. Fraudulent methods used to obtain telephone records include: (1) "pretexting," whereby a person misrepresents his identity in order to obtain the phone records of others from a telephone company employee; (2) the unauthorized sale or transfer by dishonest phone company employees; and (3) "hacking," whereby an individual gains unauthorized access to electronic phone company records.

The legislation would amend Title 18 of the United States Code by providing significant criminal penalties for the fraudulent acquisition, unauthorized disclosure, or transfer of telephone records. The bill included three separate criminal provisions, each of which would result in imprisonment for up to 10 years and/or a fine. First, the bill would make it a crime to make a false statement, or to provide a false document, to a phone company employee in order to obtain phone records. This provision also would prohibit obtaining unauthorized access to phone company customer accounts via the internet. The second provision would make it a crime to knowingly sell or transfer confidential phone records without authorization. Finally, the bill would make it a crime to knowingly purchase or receive confidential phone records without authorization.

The legislation was met with overwhelming bipartisan support. The bill had thirty-seven Senate co-sponsors, including eighteen Republicans and nineteen Democrats. The Senate Judiciary Committee approved the legislation by voice vote on March 2, 2006. Meanwhile, Congressman Lamar Smith introduced almost identical legislation in the House. The House Judiciary Committee favorably reported H.R. 4709, the Telephone Records and Privacy Protection Act of 2006, by voice vote, also on March 2, 2006. On April 25, 2006, the House passed H.R. 4709 under suspension of the rules by a vote of 409 to 0.

Shortly thereafter, both the House Energy and Commerce Committee and the Senate Commerce Committee introduced bills also addressing the issue of phone record confidentiality. In the House, Chairman Joe Barton introduced H.R. 4943, the Prevention of Fraudulent Access to Phone Records Act, on March 14, 2006. Senator George Allen introduced S. 2389, Protecting Consumer Phone Records Act, in the Senate on March 8, 2006. As with the Judiciary Committee bills, the House Commerce Committee bill would make it unlawful to obtain or disclose confidential phone records of another person by making a false statement, or providing a false document, to a phone company employee. The bill would prohibit solicitation of another person to obtain confidential phone records fraudulently and would bar the sale or disclosure of phone records obtained under false pretenses. However, instead of amending the Criminal Code, the bill would make such conduct an "unfair or deceptive act or practice" in violation of the Federal Trade Commission Act. The bill also proposed amendments to the Communications Act of 1934 imposing obligations on phone companies to protect the confidentiality of consumer phone records. The bill would

prohibit phone companies from using phone records for purposes other than increasing business or publishing directories without permission of their customers. The bill also would direct the Federal Communications Commission to issue regulations imposing more stringent security standards on phone companies.

The Senate Commerce Committee bill would prohibit a person from acquiring or using an individual's phone records without the individual's written consent. It also would make it unlawful to misrepresent that the individual has consented to the acquisition of his or her phone records. As with both Judiciary Committee bills, the Senate Commerce Committee bill would prohibit any person from obtaining unauthorized access to electronic phone records kept by phone companies via the Internet. In addition, the bill would prohibit the sale of phone records. As with the House Commerce Committee bill, the Senate Commerce bill would make violations of the Act an unfair or deceptive act or practice in violation of the Federal Trade Commission Act. Additionally, the Senate bill would provide phone companies and consumers with a private right of action against those who violate the Act. The Senate Commerce Committee bill also would direct the FCC to issue regulations requiring phone companies to protect the confidentiality of customers. The bill would require that phone companies notify customers when their phone records are disclosed without authorization. The bill includes an express preemption of contrary state law.

An effort was made to combine the Senate Judiciary Committee and Commerce Committee bills, but this effort foundered in the wake of opposition to the Commerce Committee bills from Members, industry, and consumer groups. Issues of contention included the provision preempting state law, an exception for law enforcement and intelligence gathering, the private right of action and application of the Act to Voice over Internet Protocol providers. Differences between the House and Senate Commerce Committee bills also complicated negotiations.

Ultimately, on December 8, 2006, the Senate took up and approved by voice vote the House Judiciary Committee bill, H.R. 4709, the Telephone Records and Privacy Protection Act of 2006. The bill, which was virtually identical to S. 2178, the Senate Judiciary Committee bill, had already passed the House unanimously.

C. IMMIGRATION LAW

CHAIRMAN'S MARK ON COMPREHENSIVE IMMIGRATION REFORM & S. 2611, THE COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

Approximately twenty years ago, Congress took a comprehensive approach to examining and thoroughly revising our immigration laws. Today, however, Congress is confronted with a demand for visas that far exceeds current numerical limitations; employers in some sectors of the economy are faced with a decreasing supply of U.S. workers; and more than 11 million undocumented immigrants live in the shadows within the United States. Congress is also confronted with the fact that, for a number of years, there has been a laxity of enforcement at the borders and at worksites, thus necessitating the need to take another comprehensive look at our immigration laws, which are seen by many as broken and ineffective.

Subcommittee Hearings

During the first session of the 109th Congress, Judiciary Subcommittees held hearings to examine ways the government could begin to strengthen the rule of law and establish effective and sensible immigration laws that would be vigorously enforced. The subcommittees held a series of hearings in March and April devoted exclusively to the topic of strengthening enforcement at the border and within the interior of the U.S.

The Subcommittee on Immigration, Border Security and Citizenship ("Immigration Subcommittee") and the Subcommittee on Terrorism, Technology and Homeland Security ("Terrorism Subcommittee") held a hearing titled "The Need for Comprehensive Immigration Reform: Strengthening our National Security" on May 17, 2005. It was the first in a series of hearings on the issue of comprehensive reform of our immigration system. Senators Cornyn and Kyl jointly chaired the hearing and heard testimony from expert witnesses, including the Honorable Asa Hutchison, former Under Secretary for Border and Transportation Security. The witnesses' statements outlined the elements necessary to strengthen enforcement of our immigration system at the border, taking into consideration national security concerns. Secretary Hutchison testified that, to tackle this enormous problem, the United States must effectively: (1) increase the funding of technology and security personnel along the border; (2) make it more difficult for illegal aliens to get jobs in this country; and (3) provide a workable and practical means for migrant workers to have access to job opportunities in this country when those jobs cannot otherwise be filled.

On May 26, 2006, the Immigration Subcommittee held a hearing titled "The Need for Comprehensive Immigration Reform: Serving Our National Economy." Senator Cornyn heard testimony from various expert witnesses, including the Honorable Steven J. Law, Deputy Secretary of Labor, and Thomas J. Donohue, President and Chief Executive Officer of the U.S. Chamber of Commerce.

On June 7, 2005, the Terrorism Subcommittee and the Immigration Subcommittee jointly held a hearing titled "The Southern Border in Crisis: Resources and Strategies to Improve National Security." Senators Kyl and Cornyn presided over the hearing, which included testimony of David Aguilar, Chief of the Border Patrol. His testimony, as well as that of other experts, outlined the national security threat posed by aliens from countries other than Mexico who illegally cross the border. He stated that securing the southern border is crucial because "illegal human smuggling routes may be exploited by terrorists to conduct attacks against the U.S. homeland." The hearing further highlighted the fact that any comprehensive solution dealing with the immigration crisis must effectively identify and solve this national security threat. A later Immigration Subcommittee hearing focused on the level of cooperation between the U.S. and Mexico, as well as the relationship between the two countries and the implications for both countries in dealing with comprehensive immigration reform.

Full Committee Hearings

The full Committee held a hearing on July 26, 2005, titled "Comprehensive Immigration Reform" and heard from the sponsors of

two pending bills in the Senate: S. 1438, the "Comprehensive Enforcement and Immigration Reform Act of 2005," introduced by Senators Cornyn and Kyl; and S. 1033, the "Secure America and Orderly Immigration Act," introduced by Senator John McCain and Senator Kennedy.

The Committee followed up the July hearing with a hearing on October 18, 2005 titled "Comprehensive Immigration Reform II." The Honorable Michael Chertoff, Secretary of the Department of Homeland Security, and the Honorable Elaine Chao, Secretary of the Department of Labor, testified that both increased enforcement and a new temporary guest worker program were needed to stop illegal immigration. Secretary Chertoff outlined the Administration's three-pillar approach: gain control of the border, provide a workable interior enforcement program, and establish a Temporary Worker Program. Secretary Chao stressed that any piece of legislation must contain these three elements, but must not allow amnesty. Secretaries Chao and Chertoff acknowledged that current systems are overloaded and require updating. They stressed the need to place willing workers with willing employers, while also bringing legality and responsibility to the hiring process. Secretary Chao's testimony emphasized that American workers would come first, and employers would carry the burden of proving that no American is available before offering a position to a guest worker. The hearing provided important insight and gave the Committee an opportunity to hear from the Administration.

Legislation

On November 8, 2005, Chairman Specter circulated among Committee Members a Chairman's Mark on Comprehensive Immigration Reform. Recommendations from previous hearings proved to be fruitful, and many of the suggestions were included in the border enforcement title of the Chairman's Mark. The Chairman's Mark contained several key provisions taken from bills that were pending before the Judiciary Committee. Those provisions included: (1) tougher border and interior enforcement drawn from S. 1438; (2) increased penalties for employers who hire undocumented individuals and revised worksite enforcement practices adopted from S. 1917, the "Employment Verification Act of 2005;" and (3) a modified temporary guest worker program to pair willing foreign workers with willing employers when no United States citizen can be found to take the job modeled after S. 1033. The proposal was intended to move the debate forward in anticipation of the Senate taking up immigration reform in the second session of the 109th Congress.

On February 23, 2006, during the 2nd session of the 109th Congress, an amended Chairman's Mark on immigration reform was circulated. This Mark significantly revised and expanded the previous draft and served as a framework for building a consensus within the Committee on comprehensive reform. The new Chairman's Mark prioritized border security and enforcement measures. The legislation also included measures to consolidate all administrative and civil immigration appeals into a single court and to enhance the ability of certain highly-skilled professionals to work in the United States. It also introduced the "Gold Card" visa for the

current undocumented population, allowing them to come out of the shadows and receive legal status without granting amnesty. Chairman Specter circulated a final draft of the Chairman's Mark on March 6, 2006, which included technical changes.

The first executive business meeting discussing the Chairman's Mark was held on March 2, 2006. It was followed by five additional Committee mark-ups, with a final mark-up held on March 27, 2006. A total of 357 amendments were circulated and over 60 votes taken, resulting in the addition of 54 first and second degree amendments accepted by the Committee. A significant amendment offered by Senator Graham provided a new mechanism to allow undocumented immigrants in the United States to legalize their status. On a 12–6 vote, the bill was reported out of the Judiciary Committee on March 27, 2006—the very day that the Majority Leader had set to begin Senate debate on immigration reform.

The Senate began debate on the immigration issue by considering S. 2454, the "Securing America's Borders Act," introduced by the Majority Leader. On March 30, 2006, Chairman Specter offered the Committee bill as a complete substitute to S. 2454, and this substitute became the vehicle for the floor debate. Although over 234 amendments were filed, only three received votes in two weeks of debate before action stalled when a motion to invoke cloture on the substitute amendment failed on April 6, 2006.

On April 7, 2006, after intense bipartisan negotiations, Chairman Specter and Senator Kennedy, along with Committee cosponsors Senators Graham and Brownback, introduced S. 2611, the "Comprehensive Immigration Reform Act of 2006." The new bill incorporated provisions advanced by Senators Chuck Hagel and Mel Martinez, which would make a distinction among undocumented immigrants who have resided in the country longer than five years, those who have been continually present two to five years, and those present for less than two years (or more specifically from January 7, 2004, the date of President Bush's speech calling for comprehensive immigration reform). Under these provisions, the illegal immigrant population residing in the U.S. for more than five years would be able to stay and work in the United States and must continue to work for an additional six years to be eligible for a green card. By contrast, those in the U.S. for less than five years but more than two years would be required to leave the United States and permitted to return quickly in a new temporary worker status. Finally, those illegal immigrants in the U.S. for less than two years would be required to return home and apply for entry through existing legal channels.

On May 15, 2006, the Senate proceeded to consideration of S. 2611. 228 amendments were filed and 40 roll call votes held, with 27 amendments accepted. The Senate passed S. 2611 on a 62–36 vote on May 25, 2006. To date, however, the Senate and House have been unable to resolve their legislative differences on immigration reform.

Post-Passage Hearings

On April 3, 2006, the full Committee held a hearing titled "Immigration Litigation Reform" to address proposals including (1) consolidating immigration appeals in the U.S. Court of Appeals for the

Federal Circuit; (2) proposed reforms of administrative review of immigration cases; and (3) other provisions designed to improve civil and administrative immigration litigation.

On April 25, 2006, the full Committee held a hearing titled "Immigration: Economic Impacts," where Professor Richard Freeman of Harvard University commented on the relationship between immigration and globalization: "[Immigration] is intimately connected to increased trade, free mobility of capital, and transmission of knowledge across national lines . . . the immigrant may bring capital, particularly human capital, with them, so that both capital and labor move together." The net conclusion of the scholars who testified was that there would not be a significant loss of American jobs due to comprehensive immigration reform—something that had been a concern of both parties.

On June 19, 2006, the Immigration Subcommittee held a hearing titled "Immigration Enforcement at the Workplace: Learning from the Mistakes of 1986." Expert witnesses included Stewart Baker, Assistant Secretary for Policy at the Department of Homeland Security, who spoke about the problems of the 1986 legislation and reiterated the Department's recommendations for a successful system. He explained that the Immigration Reform and Control Act of 1986 had created a market for fraudulent identification cards and social security numbers, because employers did not possess reliable means of verifying such identification. Baker testified that "the federal government must be permitted to share data that can assist in determining if unauthorized individuals are gaming the system to work. The key repository of that data is the Social Security Administration. Every employer is required to obtain the Social Security number of every employee as part of the process of determining employment eligibility." Baker opined that employers currently have little obligation to verify an immigrant's status and the penalties for violating employment laws are minimal. He suggested that Congress establish a secure, nationwide, and mandatory verification program for employers to quickly and accurately verify the status of a prospective or current employee.

On July 5, 2006, the Committee held a field hearing in Philadelphia, Pennsylvania titled "Comprehensive Immigration Reform: Examining the Need for a Guest Worker Program." Chairman Specter and Senator Kennedy heard the testimony of New York City Mayor Michael Bloomberg, who discussed the impact immigrants have on New York. Mayor Bloomberg described immigration laws as "fundamentally broken" and estimated that immigrants make up nearly 40% of New York City's population. He predicted that the City's economy would crumble if these immigrants were deported. Mr. Dan Eichenlaub, a landscape contracting owner, reiterated the Mayor's point and testified "that there are not enough native-born, available American workers to fully staff and grow my business." Mayor Bloomberg and Mr. Eichenlaub echoed views similar to those of President Bush, who has made numerous speeches, including his annual State of the Union address, urging Congress to adopt a guest worker plan.

In summary, the Comprehensive Immigration Reform Act was the product of 18 hearings, extensive Committee action, and four

weeks on the Senate floor. Nevertheless, the Senate and House failed to resolve their differences on a reform package.

IMMIGRATION PROVISIONS OF THE BUDGET RECONCILIATION ACT

On October 20, 2005, the Committee considered the Budget Reconciliation legislation. The legislation sought to promote real deficit reduction through direct funding from application fees. Among other things, the legislation would require employers to pay additional fees in exchange for increased visa numbers. The plan, as amended through the committee process, would increase the number of employment-based green cards for foreign workers while exempting those workers' accompanying family members from the 140,000 visa cap, which in previous years accounted for more than half the employment-based visas issued. It also would recapture the "unused" professional visas already authorized in past fiscal years and would allow businesses to access up to 90,000 visas per year. The proposal aimed to reduce the immigrant processing backlog that otherwise would cause employers to face serious disruptions and delays regarding highly skilled workers who are certified to be in short supply. The motion to report the budget to the full Senate was passed by a vote of 14–2.

On October 27, 2006, Senator Gregg introduced S. 1932, "An original bill to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006." The language reported by the Judiciary Committee was included in S. 1932. The language, however, was removed in House-Senate negotiations and S. 1932 (without budget reconciliation language) became Public Law 109–171.

H.R. 1268, REAL ID ACT OF 2005

Although H.R. 1268, the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief," was not referred to the Judiciary Committee, the Committee's staff played an integral role in negotiating one component of the bill, the "REAL ID Act of 2005."

The provisions of the REAL ID Act were first proposed in the House, where they were amended to H.R. 1268. The Act granted the Secretary of Homeland Security additional tools to prevent terrorists from entering our country and remove those that may have already entered illegally. If the Secretary determines that the alien is a representative of an organization that engages in or espouses terrorist activity, is a member of a designated terrorist organization or organization that engages in terrorism, has persuaded others to commit acts of terror, or has received military training from or a terrorist organization, the Secretary may deny the alien admission or begin removal proceedings. The provisions also sought to limit identity fraud by prohibiting federal agencies from accepting State issued driver's licenses or identification cards unless such documents meet minimum security requirements. Additionally, the REAL ID Act opened our borders to more immigrants seeking refuge from hostile governments, repealing a provision of federal law that placed caps on how many immigrants could seek asylum on the grounds that they were subject to forced abortions or other coercive population-control methods.

After the House attached these provisions to H.R. 1268, staff for Chairman Specter successfully negotiated with their House counterparts to moderate several provisions that threatened to jeopardize Senate support. For example, the House sought to grant the Secretary of Homeland Security unreviewable power to waive all legal requirements as needed in order to ensure that certain border barriers, such as the San Diego border fence, are constructed expeditiously. Chairman Specter's staff negotiated a provision allowing judicial review of constitutional claims, such as claims by property owners that the government had seized their land in violation of the Fifth Amendment.

The negotiations resulted in final, compromise language that was included in H.R. 1268, which was signed into law on May 11, 2005 (PL 109–13).

S. 119, UNACCOMPANIED ALIEN CHILD PROTECTION ACT OF 2005

On January 24, 2005, Senator Feinstein introduced S. 119, the "Unaccompanied Alien Child Protection Act of 2005" to reform the federal government's treatment of unaccompanied alien children apprehended by federal immigration officials. The bill was considered at a Committee executive session, where Senator Coburn offered an amendment to modify the bill to include language that would state that the United States is not required "to pay for or provide" counsel. The committee adopted the amendment by a voice vote after Senator Feinstein persuaded Senator Coburn to strike the words "or provide" from his amendment.

The Judiciary Committee approved the bill by voice vote and sent the measure to the full Senate on April 14, 2005. S. 119 passed the Senate by unanimous consent on December 22, 2006, and was sent to the House of Representatives which took no further action.

S. 188, STATE CRIMINAL ALIEN ASSISTANCE PROGRAM REAUTHORIZATION ACT OF 2005

On January 26, 2005, Senator Feinstein introduced S. 188, the "State Criminal Alien Assistance Program Reauthorization Act of 2005." The legislation would authorize monies for the State Criminal Alien Assistance Program. Funding has been appropriated by Congress annually since 1995, and the program is administered by the Office of Justice Programs' Bureau of Justice Assistance at the Department of Justice.

The Committee approved S. 188 by a voice vote and sent to the full Senate on March 17, 2005. The Senate passed S. 188 by unanimous consent on May 23, 2005. The House of Representatives, however, took no action on this legislation.

S. 3821, COMPETE ACT OF 2006

On August 3, 2006, Senator Susan Collins introduced S. 3821, "Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006, COMPETE Act." This legislation permits minor league athletes and other qualified individuals to apply for a P–1 visa (currently only available to major league athletes and other qualified entertainers).

On December 6, 2006, the COMPETE Act (modified by Senator Collins) was discharged from the Judiciary Committee and passed the full Senate by unanimous consent. Three days later, on December 9, 2006, the House of Representatives passed S. 3821 by voice vote, sending it to the President to sign into law. On Friday, December 15, 2006, the White House received S. 3821 and the bill now awaits President Bush's signature.

H.R. 1285, NURSING RELIEF FOR DISADVANTAGED AREAS REAUTHORIZATION ACT OF 2005

Representatives Bobby Rush and Henry Hyde introduced H.R. 1285, the "Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005." H.R. 1285 amends the Nursing Relief for Disadvantaged Areas Act of 1999 to reauthorize and extend for three years the H–1C visa program providing nonimmigrant nurses in health professional shortage areas. The measure passed the House by a voice vote on June 20, 2006 and was referred to the Judiciary Committee. The legislation was discharged from committee and subsequently passed the Senate by unanimous consent on December 6, 2006. H.R. 1285 was presented to the President for signature on December 11, 2006.

S. 2425, REAUTHORIZATION OF THE CONRAD 30 VISA WAIVER PROGRAM

On March 15, 2006, Senator Kent Conrad and Senator Brownback introduced S. 2425, a proposal to permanently reauthorize the Conrad 30 visa waiver program. The program waives the foreign country residence requirement for certain international medical graduates who have completed their training in the United States. Under the program, these graduates may remain in the United States without first returning home if they agree to spend three years providing medical care to rural areas experiencing a shortage of doctors.

The House of Representatives passed a companion bill, H.R. 4997, "Physicians for Underserved Areas Act" (which modified the original bill and only extended the visa waiver program for 2 years) on December 6, 2006. The bill passed by unanimous consent (without amendment) on December 9, 2006 and was sent to the President for signature.

D. CONSTITUTIONAL LAW

S. 2703, THE FANNIE LOU HAMER, ROSA PARKS, CORETTA SCOTT KING, AND CÉSAR E. CHÁVEZ VOTING RIGHTS ACT REAUTHORIZATION AND AMENDMENTS ACT OF 2006

Congress enacted the Voting Rights Act of 1965 to remedy pervasive racial discrimination in voting, which resulted in the almost complete disenfranchisement of minority citizens in certain areas of the country. The Act created permanent, nationwide protection for every American citizen, protections that remain vital to voters today. It also created certain temporary provisions, which were reauthorized and expanded in 1970, 1975, 1982, and (with respect to language assistance) 1992.

Prior to the enactment of the Voting Rights Act, African-Americans and other minorities were prevented from exercising their con-

stitutional rights through violence, intimidation, and systematic and deliberate State action. Through the enactment of the Voting Rights Act of 1965, Congress sought to end that discrimination.

The Act had a concrete impact on America's political landscape. The covered jurisdictions that once sponsored violence against minority voters now elect substantial numbers of minorities to elected office. In Georgia, for example, the voting age population is 27.2% African-American, and African-Americans comprise 30.7% of its delegation to the U.S. House of Representatives and 26.5% of the officials elected statewide. U.S. Census Bureau Report on 2004 Election; The Bullock-Gaddie Voting Rights Studies: An Analysis of Section 5 of the Voting Rights Act (2006). Black candidates in Mississippi have achieved similar success. The State's voting age population is 34.1% African-American, and 29.5% of its representatives in the State House and 25% of its delegation to the U.S. House of Representatives is African-American. *Id.*

In light of these significant gains, the Voting Rights Act is rightly lauded as the crown jewel of our civil rights laws. The Act has enabled racial minorities to participate fully in the political life of the nation. Even with this important progress, however, Congress recognized the need to secure minority voters' hard-won rights. The work of achieving full and equal access to the ballot box remains unfinished business. With an often painful history in mind, on July 19, 2006, the Senate Judiciary Committee voted unanimously to report S. 2703, the "Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and Cesar E. Chávez Voting Rights Act Reauthorization and Amendments Act." S. 2703 extended for twenty-five years certain provisions of the Voting Rights Act of 1965 that are set to expire in 2007, and it amended several provisions of the Act to ensure that it can continue to serve its historic purpose.

In addition to renewing most of the expiring provisions of the Voting Rights Act, S. 2703 updates certain sections to more efficiently and effectively deal with discrimination in voting. For example, Section 3 eliminates the provisions for federal election examiners, who, in the past, were used to ensure that voters were not excluded from voter registration lists. These examiners had not been used for that purpose in over 20 years. Section 3 also eliminates the provisions for terminating federal examiner certifications.

In addition, Section 3 alters one of the standards for certifying jurisdictions for federal observer coverage. Prior to the Voting Rights Act's reauthorization, the Attorney General could appoint federal observers to monitor polling places in covered jurisdictions if the Attorney General had received written complaints from at least twenty residents who have been denied the right to vote by the government. Section 3 amends the Voting Rights Act to allow the Attorney General to do so provided that at least two "residents, elected officials, or civic participation organizations" have complained in writing that voting rights violations "are likely to occur."

Section 4 of the reauthorized Act grants a 25-year renewal of the coverage formula stated in section 4 of the Voting Rights Act of 1965. It also requires Congress to reconsider these provisions in 15 years.

Section 5 responds, in part, to two Supreme Court decisions that interpreted the criteria for preclearance of voting changes under

section 5 of the Voting Rights Act of 1965: *Reno* v. *Bossier Parish School Board,* 528 U.S. 320 (2000) (*Bossier Parish II*), and *Georgia* v. *Ashcroft,* 539 U.S. 461 (2003).

Section 6 amends the Voting Rights Act of 1965 to allow certain prevailing plaintiffs to collect reasonable expert fees, and other reasonable litigation expenses. Section 7 extends the requirements of section 203 of the VRA, which forms the basis for protecting language minority voters, through 2032. Finally, Section 8 allows use of American Community Survey census data under the Act.

The Committee sought to create a full and complete legislative record to support this update and 25-year renewal. To that end, the full Committee and the Subcommittee on the Constitution, Civil Rights and Property Rights held a combined total of ten hearings over the course of four months and heard from more than forty witnesses, including scholars, civil rights advocates, as well as current and former government officials.

On July 19, 2006, the Committee held a markup to consider the bill S. 2703. Ranking Member Leahy offered a technical amendment to expand the short title of the bill, S. 2703, to include the name of César E. Chávez. The technical amendment was agreed to by voice vote. An amendment was offered by Dr. Coburn to provide that persons who state that they speak English "well" in response to the Census Bureau's inquiry would not be considered limited-English proficient under section 203(b)(3) of the Voting Rights Act. The amendment was defeated by voice vote. The motion to report favorably the bill, S. 2703, was agreed by a roll call vote of 18–0.

On July 20, 2006, the House passed H.R. 9, identical in language to S. 2703, was passed by the Senate by a vote of 98–0. On July 26, 2006, Chairman Specter filed a written report on the bill, Report No. 109–295. Other Members of the Committee also submitted additional views. President Bush signed H.R. 9 into law on July 27, 2006 (PL 109–246).

S.J. RES. 1, MARRIAGE PROTECTION AMENDMENT

On May 18, 2006, the Committee reported S.J. Res. 1, a proposal to amend the U.S. Constitution to define marriage as the union of one man and one woman. The resolution further provided that neither the federal constitution nor the constitution of any state should be construed to require that same-sex couples be granted a right to marry.

Federal law provides statutory protection for traditional marriage in the Defense of Marriage Act, which was signed into law by President Clinton on September 21, 1996. The Defense of Marriage Act provides that (1) in interpreting Acts of Congress, federal courts should interpret "marriage" to include only a union between a man and a woman, and (2) no state shall be required to give effect to any law or judicial proceeding of any other state defining marriage to include persons of the same sex. The Act, however, does not prevent a state or federal court from mandating that a State recognize same-sex marriage on constitutional grounds.

The push for a federal constitutional amendment defining marriage as the union of one man and one woman was spurred in large part by the decision of the Supreme Judicial Court of Massachusetts in *Goodridge* v. *Department of Public Health,* 798 N.E.2d 941

(Mass. 2003). The Massachusetts high court ruled that the state constitution's guarantee of equal protection required that same-sex couples be allowed to marry. In response to the *Goodridge* decision and other legal challenges to state marriage laws, 19 states have passed constitutional amendments defining marriage only as the union of a man and a woman, and another 26 states have enacted statutory protections.

The Committee held a markup on May 18 and approved S.J. Res. 1 by a vote of 10–8. Senator Brownback and Senator Wayne Allard managed the floor debate in favor of the amendment. Proponents raised concerns that federal and state courts would invalidate statutory marriage protections or protections found in state constitutions, ruling that they violated state constitutions or the federal constitution. Opponents put forth a range of arguments. Some believed that federal constitutional protection was premature, and that Congress should allow the issue to make its way through the federal court system before amending the Constitution. Others believed that the amendment would constitute unfair treatment and discrimination against homosexual citizens.

On June 7, 2006, by a 49–48 vote, cloture on the motion to proceed to S.J. Res. 1 was not invoked.

S.J. RES. 12, FLAG DESECRATION AMENDMENT

On June 20, 2006, the Committee reported S.J. Res. 12, which sought to amend the U.S. Constitution to allow Congress to prohibit the physical desecration of the American flag.

The amendment sought to restore to Congress the power it held prior to the Supreme Court's decisions in *Texas* v. *Johnson* and *United States* v. *Eichman*. In *Texas* v. *Johnson,* the Court held that a Texas state statute prohibiting defilement of the U.S. flag violated the First Amendment's guarantee of freedom of speech. In response to this decision, Congress passed the Flag Protection Act of 1989, which made it a crime to knowingly mutilate, deface, physically defile, burn, keep on the ground or floor, or trample upon the United States flag. However, the following year, the Court struck down this statutory solution in *United States* v. *Eichman*. As a result of these two Supreme Court decisions, Congress may not offer protection for the American flag except through a new constitutional grant of power. S.J. Res. 12 sought to give Congress this power.

The Committee held a markup on June 15 and approved S.J. Res. 12 by a vote of 11–7.

Chairman Specter and Senator Hatch led floor debate for proponents of S.J. Res. 12, while Ranking Member Leahy led debate for the measure's opponents. Proponents emphasized the flag's special status as a symbol of America and likened desecration of the flag to the defacing of national buildings and monuments. They noted that our nation consistently offered protection for the U.S. flag, ending only after the *Johnson* and *Eichman* decisions in 1989 and 1990. Proponents also explained that the proposed amendment did not itself limit expressive conduct in any way; rather, the amendment would have restored to Congress the power it possessed to protect the American flag.

Opponents of the amendment asserted that the amendment would rewrite the First Amendment to allow Congress to prohibit one unpopular form of speech. They argued that the Constitution itself is more worthy of protection than the flag, and stated that the proposed amendment was an affront to the freedoms the Bill of Rights provides. Some also raised concerns that the term "desecration" was vague, and that it did not define with sufficient clarity those actions Congress could prohibit.

Senator Durbin proposed a substitute resolution on the Senate floor. The substitute proposed statutory flag protection in lieu of a constitutional amendment. The Durbin substitute was defeated on June 27, 2006 in a 36–64 vote. The flag protection amendment, S.J. Res. 12, was defeated on June 27, 2006, by a vote of 66–34, one vote short of passage.

S. 2831, FREE FLOW OF INFORMATION ACT OF 2006

During the 109th Congress, the headlines included several high profile cases of federal prosecutors subpoenaing journalists threatening them with imprisonment unless they disclosed confidential sources. Indeed, the cases of New York Times reporter Judith Miller and Time Magazine reporter Matthew Cooper were to extend for years. In response to First Amendment concerns, on February 9, 2005, Senator Richard Lugar introduced S. 340, the "Free Flow of Information Act of 2005," which gained the support of a bipartisan group of ten Senators.

The bill would establish a federal journalists' privilege to protect the free flow of information between journalists and confidential sources. The bill sought to reconcile reporters' need to maintain confidentiality, in order to ensure that sources will speak openly and freely, with the public's right to effective law enforcement and fair trials. Additionally, the bill sought to create a clear, uniform rule for deciding claims of journalist privilege, instead of the varying standards the federal courts currently apply. Indeed, the different circuits currently observe at least three different standards.

With respect to federal criminal cases, five circuits—the First, Fourth, Fifth, Sixth, and Seventh Circuits—do not shield journalists unless the governmental has acted in bad faith. Four other circuits—the Second, Third, Ninth, and Eleventh Circuits—recognize a qualified privilege, which requires courts to balance the freedom of the press against the obligation to provide testimony on a case-by-case basis. The law in the District of Columbia Circuit is unsettled.

With respect to federal civil cases, nine of the twelve circuits apply a balancing test when deciding whether journalists must disclose confidential sources. One circuit affords journalists no privilege in any context. Two other circuits have yet to decide whether journalists have any privilege in civil cases.

Meanwhile, 49 states plus the District of Columbia have recognized a privilege within their own jurisdictions. Thirty-one states plus the District of Columbia have passed some form of reporter's shield statute, and 18 states have recognized a privilege at common law.

The Committee held four hearings to investigate how best to balance the needs of journalists and law enforcement. On July 20,

2005, the Committee heard from Senator Lugar; Senator Christopher Dodd; Representative Mike Pence; Matthew Cooper, White House Correspondent for Time Magazine Inc.; Norman Pearlstine, Editor-in-Chief for Time Inc.; William Safire, political columnist for the New York Times Company; Floyd Abrams, partner at Cahill, Gordon & Reindel LLP; Lee Levine, of Levine, Sullivan, Koch & Schulz, LLP; and Professor Geoffrey Stone, Harry Kalven, Jr. Distinguished Service Professor of Law at the University of Chicago Law School.

On October 19, 2005, the Committee held a hearing that included Chuck Rosenberg, United States Attorney for the Southern District of Texas, testifying on behalf of the United States Department of Justice; Judith Miller, Investigative Reporter and Senior Writer for The New York Times; David Westin, President of ABC News; Joseph E. diGenova, founding partner of diGenova & Toensing LLP; Anne Gordon, Managing Editor of the Philadelphia Inquirer; Dale Davenport, Editorial Page Editor for The Patriot-News of Harrisburg, Pennsylvania; and Steven D. Clymer, Professor of Law at Cornell Law School.

Prompted by concerns raised at these hearings and expressed by Committee Members, the Department of Justice, numerous news organizations, and concerned groups such as the Chamber of Commerce, Chairman Specter led a series or negotiations to forge a compromise bill that would garner wider support. After several months, the result was S. 2831, the "Free Flow of Information Act of 2006," introduced by Senator Richard Lugar and Chairman Specter and co-sponsored by a bipartisan group of nine Senators. The compromise bill clarified that journalists must disclose information in certain exigent circumstances—for example, when the information is needed to prevent a terror attack, to protect the national security, to prevent death or serious bodily harm, and to provide a criminal defendant with information needed to establish his or her innocence. At the same time, the bill would protect journalists from government harassment and intimidation. Indeed, S. 2831 was endorsed by 39 news organizations, including the Washington Post, the Hearst Corporation, Time Warner, ABC Inc., CBS, CNN, the New York Times Company, and National Public Radio.

On September 20, 2006, the Committee held a hearing to evaluate S. 2831 and its potential effects on criminal investigations, criminal prosecutions, and national security. Witnesses included the Honorable Paul J. McNulty, Deputy Attorney General of the United States; Steven D. Clymer, Professor at Cornell Law School; Theodore B. Olson, former Solicitor General of the United States and a partner at Gibson, Dunn & Crutcher LLP; Victor E. Schwartz, partner at Shook, Hardy & Bacon LLP; and Bruce A. Baird, partner at Covington & Burling LLP.

No further action was taken by the Committee or the full Senate.

S. 3731, PRESIDENTIAL SIGNING STATEMENTS ACT OF 2006

Since the presidency of James Monroe, Presidents have issued signing statements for such generally uncontroversial purposes as explaining to the public the likely effect of a law, instructing executive branch officials on how to administer a law, and declining to execute a statute in a manner the President deems unconstitu-

tional. During the 109th Congress, debate arose over two types of signing statements: signing statements that challenged what the President believes to be an unconstitutional encroachment on his power and signing statements that attempted to create legislative history for courts to use in interpreting statutes.

On June 27, 2006, the Committee held a hearing to explore the separation of powers issues surrounding presidential signing statements. The Committee received testimony from the Justice Department's Office of Legal Counsel, as well as four renowned academics. Critics asserted that President Bush had broken with tradition by issuing signing statements intended to expand Presidential authority at the expense of Congress. They pointed to the signing statements accompanying the USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006 and Senator McCain's "anti-torture amendment" to the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act of 2006. Other witnesses, however, argued that President Bush was rightfully challenging unconstitutional encroachments on his power, a course followed by Presidents Jackson, Tyler, Lincoln, Andrew Johnson, Wilson, Franklin Roosevelt, Truman, Eisenhower, Lyndon Johnson, Nixon, Ford, and Carter. Critics also argued that courts act improperly when treating signing statements as a form of "legislative history" relevant to construing an Act of Congress. Supporters pointed out that examples of federal courts using signing statements as evidence of legislative intent date back to at least 1946.

On July 26, 2006, Chairman Specter introduced S. 3731, the "Presidential Signing Statements Act of 2006." The bill would instruct courts not to rely on presidential signing statements in construing an Act of Congress. The bill would permit Congress to seek a declaratory judgment on the legality of a presidential signing statement. Additionally, the bill would grant Congress the power to submit argument to the Supreme Court in any case where the construction or constitutionality of any Act of Congress is in question and a presidential signing statement for that Act was issued.

No further action was taken on the bill in the 109th Congress.

S. 1313, THE PROTECTION OF HOMES, SMALL BUSINESSES, AND PRIVATE PROPERTY ACT OF 2005

On June 23, 2005, the Supreme Court issued its decision in *Kelo* v. *City of New London,* ruling that the Constitution allowed the City of New London, Connecticut to seize the home of school teacher Suzette Kelo and transfer it to the Pfizer Corporation to build a research facility and parking lot. The Court held that taking land from one private owner and transferring it to a private corporation for its own, private use constituted a "public use" of the land, because the transfer would promote "economic development" and increase tax revenues for the City of New London.

Critics contended that *Kelo* was a radical departure from prior eminent domain decisions. In the past, the Supreme Court had interpreted "public use" to include use by common carriers such as railroads or public utilities; publicly owned real property such as highways and parks; and elimination of blight conditions that endanger public health and welfare. Justice O'Conner pointed out in

her dissent that the Court's decision to broaden the definition of "public use" meant that now, "[t]he specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

On June 27, 2005, Senator Cornyn introduced S. 1313, the "Protection of Homes, Small Businesses, and Private Property Act of 2005," with Committee cosponsors Senators Coburn and Kyl. The bill would limit the power of eminent domain to public uses, which would not be construed to include economic development. The bill would apply to all exercises of eminent domain by the federal government and those exercises of eminent domain by state and local governments that used federal funds.

The Committee held a hearing on September 20, 2005 to explore the effects of the *Kelo* ruling and to consider whether Congress should address the decision. With Suzette Kelo testifying, the hearing highlighted the importance of two competing interests. On the one hand, citizens must not be forced to live in fear that they will be compelled to surrender their homes if a potentially more wealthy or more powerful user comes along. On the other hand, the citizenry must recognize that the use of eminent domain has benefited our country, making way for highways, bridges, roads, and eliminating blight conditions.

Staff for Chairman Specter spent several months meeting with staff for other Senators, city officials, and concerned citizens. The result was draft legislation that would allow eminent domain for the uses recognized by the Supreme Court prior to the *Kelo* decision, including: (1) use by the general public with full government ownership; (2) use by government employees for official government business; (3) use for common-carrier functions that serve the general public and are subject to regulation and oversight by the government, such as mass transit, railroad, seaport, or highway projects; (4) use for arenas or stadiums that serve the general public; (5) use for public utility functions, such as generation, transmission, or distribution of electric energy, and provision of telecommunications, water, and wastewater services; and (6) alleviating blight conditions that are dangerous to public health or safety. In addition, the bill would create a private cause of action in the federal courts.

No further action was taken on the proposals by Senator Cornyn and Chairman Specter during the 109th Congress

On September 7, 2006, Senator Inhofe introduced S. 3873, the Private Property Rights Protection Act of 2006. S. 3873 is identical to H.R. 4128, the Private Property Rights Protection Act of 2005, which passed the House on November 3, 2005.

The full Senate did not act on any of these measures.

S. 403, THE CHILD CUSTODY PROTECTION ACT

In January and February 2005, Senator John Ensign introduced three identical versions of the Child Custody Protection Act. The bills sought to address the concern that some adults were helping children evade state laws requiring a child to obtain a parent's consent or notification before having an abortion. Specifically, reports surfaced that adults had transported minor girls from states with

parental consent or notification laws to states that lack such provisions. The bills were cosponsored by 40 Republican Senators and one Democratic Senator, Senator Ben Nelson of Nebraska. Two of the bills, S. 8 and S. 396, were referred to the Judiciary Committee; the third, S. 403, was placed on the calendar under Senate Rule XIV.

The full Committee held a hearing on an identical bill during the 108th Congress on June 3, 2004. At the hearing, the Committee heard testimony from Teresa Stanton Collett, Professor of Law at the University of Saint Thomas School of Law; Senator Ensign, sponsor of the bills; Joyce Farley, mother of a twelve-year old daughter who was transported across state lines, without parental consent, for an abortion; John C. Harrison, Professor of Law at the University of Virginia School of Law; Crystal Lane, who at age 13 was transported across state lines for an abortion; The Rev. Dr. Katherine Hancock Ragsdale, on behalf of NARAL and the Religious Coalition for Reproductive Choice; and Peter J. Rubin, Professor of Law at Georgetown University School of Law. The hearing focused on the experience of girls who face unplanned pregnancies in states with parental consent or notification laws; the problems that can arise when parents lack information about their daughters' medical care; and whether or not the bills were constitutional.

The bills would prevent parties from circumventing state parental-notification laws by making it a crime, punishable by up to one year's imprisonment and/or fine to "knowingly" transport a child outside her home state "with the intent" that the child obtain an abortion that would have abridged a parental notification law in the child's home state. They included an exception if the abortion was necessary to save the minor's life and clarified that lawsuits could not be brought against the pregnant minor or a parent of the pregnant minor.

During consideration of S. 403 by the Senate, two amendments were offered on the floor. Senator Frank Lautenberg offered an amendment to authorize grants to local schools, public health authorities, and private non-profit groups for the purpose of providing federal sex education programs to children. Under the amendment, no grants could go to groups that teach only abstinence, and all grant recipients would be required to teach children about "all contraceptives." The amendment was defeated by a vote of 48–51. Senator Barbara Boxer offered an amendment to create an exception to the Act for pregnancy caused by incest, which was approved by a vote of 98–0.

The Child Custody Protection Act passed the Senate, by a vote of 65–34, and the bill was submitted to the House.

The House amended the bill to add parental notification requirements on physicians in non-parental consent and non-notification states. The amendment would require any physician in these states who performs an abortion on a minor girl to notify the girl's parents of the abortion within 24 hours, if the girl is a resident of a state other than the state where the abortion was performed. The amendment included exceptions where the girl's life or health is in danger, or where the girl has obtained permission for parental bypass in her home state. On September 26, 2006, the House passed the bill, as amended, by a vote of 264–153.

On September 29, the Senate voted by a margin of 57–42 not to invoke cloture on the motion to concur to the House passed bill.

S. 394, OPEN GOVERNMENT ACT OF 2005

On February 16, 2005, Senator Cornyn introduced S. 394, the OPEN Government Act. Cosponsors included two Republican Senators and three Democratic Senators. On March 15, 2005, the Subcommittee on Terrorism, Technology and Homeland Security held a hearing on the bill.

This bipartisan bill sought to remedy government agencies' frequent failure to timely comply with Freedom of Information Act ("FOIA") requests by increasing reporting requirements and creating incentives for timely compliance. The bill would require the Attorney General to report to Congress on any court order finding that an agency improperly withheld information and assessing attorneys' fees. It also would require each agency to submit to the Attorney General data on the agency's average time for responding to FOIA requests. The bill proposed several penalties for noncompliance with FOIA's deadlines. For example, if an agency failed to meet FOIA's deadlines, the government would lose the right to assert any privileges over the information unless (1) the government had good cause for the failure, (2) disclosure would endanger national security, (3) disclosure would reveal personal private information protected by FOIA (e.g., home phone numbers), or (4) disclosure is otherwise illegal. Additionally, the bill also proposed updating FOIA to grant bloggers and other non-traditional media outlets the same reduced fees for FOIA requests that are available to traditional media outlets. Finally, to reduce litigation over whether FOIA applies to certain information, the bill proposed that any future statute which intends to create an exception to FOIA must explicitly state this intention.

On September 21, 2006, the Committee reported S. 394 by voice vote. Nor further action was taken on S. 394 in the 109th Congress.

E. ANTI-TERRORISM MEASURES

S. 1389 & H.R.3199, THE USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005

Following the terrorist attacks of September 11, 2001, the 107th Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA PATRIOT Act" or "PATRIOT Act"). The PATRIOT Act amended the criminal code and the Foreign Intelligence Surveillance Act of 1978 ("FISA") to enhance the ability of federal authorities to conduct criminal and intelligence investigations, promote information sharing, strengthen criminal punishments for acts of terrorism, and provide the tools needed to sever terrorists' access to sources of material support. Sixteen provisions of the original PATRIOT Act, however, were scheduled to expire or "sunset" on December 31, 2005, unless reauthorized by Congress.

During the 107th and 108th Congresses, the Committee held more than a dozen hearings related to various provisions of the PATRIOT Act. At the start of the 109th Congress, the Committee fo-

cused especially on the provisions scheduled to sunset. These included section 206, governing multipoint FISA wiretaps, and section 215, the so- called "library" provision, governing FISA orders for business records or tangible things. The Committee also focused on some controversial provisions that were not scheduled to sunset, including sections governing the delayed notice of search warrants (section 213, the so-called "sneak and peak" provision) and the use of National Security Letters (section 505).

On April 5, 2005, the Committee held a hearing on "Oversight of the USA PATRIOT Act," and heard testimony from Attorney General Alberto Gonzales and FBI Director Robert S. Mueller, III. At the hearing, the Attorney General announced publicly, for the first time, that section 215 of the Act—the provision governing FISA orders for business records—had been used only 35 times, and had never been used to obtain library or bookstore records, medical records, or gun sale records. The Attorney General also expressed a willingness to support amendments to section 215 to clarify the right of a recipient of an order to consult with an attorney and challenge the order in court. Through testimony at the hearing and subsequent correspondence with the Department of Justice, the Committee also learned that the Department had used section 213 of the Act to request approximately 155 delayed-notice search warrants. The Department estimated this number to be "less than one-fifth of 1 percent of all search warrants" executed during the relevant time period.

On April 12, 2005, the Committee held a closed session, during which the head of the Justice Department's Office of Intelligence Policy and Review, James Baker, and the FBI's General Counsel, Valerie Caproni, testified about implementation of the PATRIOT Act. While the details of the session were classified, the witnesses testified that several of the foreign intelligence authorities granted by the PATRIOT Act had been used to target international terrorists.

On May 10, 2005, the Committee held another hearing to elicit the opinions of scholars and critics of the PATRIOT Act, including the testimony of Senator Larry Craig and Senator Durbin, the principal cosponsors of the "Security and Freedom Enhancement Act of 2005" (the "SAFE Act").

On July 13, 2005, Chairman Specter and Senators Kyl and Feinstein introduced S. 1389, the "USA PATRIOT Improvement and Reauthorization Act of 2005," a bipartisan reauthorization bill to continue most of the PATRIOT Act's provisions, while adding new safeguards designed to protect civil liberties. The bill made 14 of the 16 provisions scheduled to sunset permanent, but extended the sunset for another four years for section 206 (multipoint FISA wiretaps) and section 215 (FISA business records). Additionally, for section 215 orders, the bill required the government to submit "a statement of facts" showing "reasonable grounds to believe" the records or other things sought are relevant to an authorized investigation. The bill also proposed an explicit right to consult counsel, and provided for judicial review. Further, the bill required approval of the FBI Director or Deputy Director for orders concerning library records and other sensitive materials. With respect to delayed-notice search warrants under section 213, the bill would require the

issuing court to set a "date certain" for notice to be provided, eliminating the possibility of indefinite delays. The bill also would mandate that extensions be granted only "upon an updated showing of the need for further delay," and limited such extensions to 90 days each. The bill incorporated new public and Congressional reporting requirements for several PATRIOT Act authorities.

In the days following the introduction of S. 1389, Committee Members and staff engaged in intensive, bipartisan negotiations about the substance of the bill. After several informal sessions, Chairman Specter presented a complete substitute bill at the Committee's Executive Business Meeting on July 21, 2005. The substitute was adopted by the Committee on a roll call vote of 18 to 0. As passed by the Committee, S. 1398 included several new provisions to strengthen anti-terrorism tools and enhance civil liberties protections.

For example the bill proposed extending the duration of surveillance orders targeting foreign spies and terrorists and enhancing the efficiency of pen registers by allowing investigators to obtain contemporaneous subscriber information and related data (like the name and address of someone called by the investigative subject). Additionally, the bill eliminated the sunset on the material support provisions that had been included in the Intelligence Reform and Terrorism Prevention Act of 2004. The Department of Justice had testified that "repealing the sunset on those amendments to the material support statutes contained in the Intelligence reform Act would represent a significant step forward, ending uncertainty in this area of the law and ensuring that prosecutors will not lose a critical tool."

The civil liberties protections in S. 1389, as reported by the Committee, included several changes to section 206 (multipoint or "roving" FISA wiretaps), section 215 (FISA orders for business records), and section 213 (delayed-notice search warrants). For all multipoint or "roving" wiretaps, the bill would require the FBI to notify the court within 10 days after beginning surveillance of any new phone, to include the "facts and circumstances" to believe the new phone is "being used, or is about to be used," by the target. For delayed notice, or "sneak and peek" search warrants, the bill would require notice of the search to be given within 7 days of its execution, unless the facts justified a later date. For section 215 orders, the bill would require applications for orders to include "a statement of facts" showing "reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation." The bill further defined "relevant" records as those that (1) pertain to a foreign power or an agent of a foreign power; (2) are relevant to the activities of a suspected agent of a foreign power; or (3) pertain to an individual in contact with, or known to, a suspected agent of a foreign power.

While S. 1389 was being negotiated, other congressional actions were also being taken to reauthorize the PATRIOT Act. On June 16, 2005, the Senate Select Committee on Intelligence reported S. 1266, its own PATRIOT Act reauthorization bill. S. 1266 differed from S. 1389 in several respects; most notably, it included a provision to permit the FBI to issue administrative subpoenas for information in counterterrorism and counterintelligence cases. In addi-

tion, on July 21, 2005, the House of Representatives passed H.R. 3199, the "USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005," by a vote of 257 to 171. Unlike S. 1389, which largely consisted of amendments to the original PATRIOT Act, H.R. 3199 included several new anti-terrorism and criminal law provisions.

On July 29, the Senate took up H.R. 3199 and substituted the text of S. 1389 as reported by the Judiciary Committee for the language passed by the House. As modified, the Senate passed H.R. 3199 by unanimous consent. Although the Senate appointed conferees upon passage of the bill, the House did not appoint its conferees until November 9, 2005.

The conference report to accompany H.R. 3199 represented a compromise between the Senate and House bills. For example, the conference report included 7-year sunsets for section 206 and section 215—a compromise between the Senate bill's 4-year sunsets and the House bill's 10-year sunsets. Similarly, for delayed-notice search warrants, the conference report required notice to be given within 30 days—a compromise between the Senate's 7-day time limit and the 180 days permitted under the House bill. The conference report also retained the Senate bill's three-part relevance test for section 215 orders, but did so in the form of a legal presumption, rather than an absolute requirement.

The House adopted the conference report by a vote of 251 to 174 on December 14, 2004. But, on December 16, efforts to invoke cloture on the conference report in the Senate failed. These efforts were complicated by the revelation of the National Security Agency's Terrorist Surveillance Program, which first appeared in the New York Times on the same day as the cloture vote. Ultimately, after two temporary extensions of the PATRIOT Act, the Senate adopted the conference report for H.R. 3199 on March 2, 2006 by a vote of 89 to 10. At the same time, the Senate adopted a companion bill sponsored by Senator John Sununu, S. 2271 the "USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006." Among other things, S. 2271 provided a mechanism for recipients of section 215 orders to challenge the accompanying "gag" order, and clarified that recipients of National Security Letters are not required to disclose the name of their attorneys to the FBI. On March 9, 2005, President Bush signed both measures into law (PL 109–177 and 109–178).

S. 2453, NATIONAL SECURITY SURVEILLANCE ACT OF 2006

S. 2455, TERRORIST SURVEILLANCE ACT OF 2006

S. 3001, FOREIGN INTELLIGENCE SURVEILLANCE IMPROVEMENT AND ENHANCEMENT ACT OF 2006

Following the attacks of September 11, 2001, the Executive branch took several actions and instituted programs to detect and prevent future terror attacks. Among these measures, President Bush signed a highly classified directive that authorized the national Security Agency to conduct an electronic surveillance program known as the Terrorist Surveillance Program. According to Administration officials, the program targets communications between terror suspects overseas and people inside the United States.

On December 16, 2005, the New York Times revealed the existence of the program, sparking a national debate on the President's power to authorize the Terrorist Surveillance Program without congressional authorization. Critics argued that the President's directive violated the Foreign Intelligence Surveillance Act (FISA) and the Fourth Amendment. These critics emphasized that Congress has declared that FISA is the "exclusive means" by which foreign intelligence surveillance may be conducted. Supporters argued that the President has inherent power under Article II of the Constitution to conduct foreign intelligence surveillance that cannot be restricted by FISA. Moreover, these supporters argued, Congress had authorized the President to carry out programs such as the Terrorist Surveillance Program when it passed the Authorization for Use of Military Force in September 2001.

To consider these legal issues, the Committee held four hearings, in which it heard from a total of 21 witnesses, including the Attorney General, the Director of the CIA, the Director of the NSA, 5 former FISA judges, and numerous other government officials, law professors, and private attorneys.

On February 6th Attorney General Alberto Gonzales testified before the Committee for the entire day about the Terrorist Surveillance Program. On February 28th the Committee held a hearing to investigate whether the President had the inherent constitutional authority to implement the Terrorist Surveillance Program, featuring a number of distinguished professors and practitioners as well as the Honorable James Woolsey, former director of the CIA. On March 28th the Committee held its third hearing, in which five former judges of the Foreign Intelligence Court of Review discussed the need for and feasibility of judicial review of the Terrorist Surveillance Program. On July 26th the Committee held a hearing explored the need to update FISA to reflect recent technological changes. Witnesses included the Director of the CIA, the Director of the NSA, and the Acting Assistant Attorney General for the Office of Legal Counsel.

Meanwhile, on March 16, 2006, Chairman Specter introduced S. 2453, the "National Security Surveillance Act of 2006." The bill sought to provide a mechanism for prior judicial approval of the Terrorist Surveillance Program and grant the Foreign Intelligence Surveillance Court jurisdiction to review the constitutionality of such programs. Additionally, the bill required the Executive branch to keep the Senate and House Intelligence Committees informed regarding electronic surveillance programs.

That same day, Senator DeWine introduced S. 2455, the "Terrorist Surveillance Act of 2006," cosponsored by Senator Graham. S. 2455 would authorize the Terrorist Surveillance Program without judicial review, and would provide for enhanced congressional oversight of the program. In addition, S. 2455 provided that once the Attorney General determined that the facts relating to any target within the United States satisfied the criteria for an individualized court order under FISA, he would be required to stop surveillance until he obtained such a court order.

Subsequently, on May 24th, Chairman Specter and Senator Feinstein introduced S. 3001, the "Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006." S. 3001 provided that

no law shall be construed to repeal or modify FISA unless it expressly amends FISA. The bill required the President to brief each Member of the congressional intelligence committees on the Terrorist Surveillance Program and any other electronic surveillance programs conducted without an order from the Foreign Intelligence Surveillance Court. It also proposed updating FISA provisions concerning emergency electronic surveillance.

Staff for Chairman Specter met with Executive branch and other interested groups over the course of several months to discuss legislation to address the Terrorist Surveillance Program. Proposals regarding the bill were considered and debated and the bill was revised and redrafted several times. The negotiations culminated in a meeting between Chairman Specter and President Bush in the Oval Office. During this meeting, the President agreed to submit the Terrorist Surveillance Program to the Foreign Intelligence Surveillance Court for a determination of the program's constitutionality, so long as the Senate also acted to modernize FISA. The result was a compromise, substitute version of S. 2453.

S. 2453 was on the Committee's mark-up agenda continuously from April 6th through September 13, when the Committee adopted Chairman Specter's compromise, substitute amendment and reported it out on a 10–8, party-line vote. That day, the Committee also reported S. 2455 on a 10–8, party-line vote, and S. 3001 by a 10–8 vote.

In the following weeks, Chairman Specter further revised S. 2453 to incorporate additional civil liberty protections, such as language similar to the provision of S. 2455 requiring the Attorney General to seek individualized FISA orders when appropriate. On September 22, Senator Mitch McConnell introduced a revised version of the bill that incorporated these protections—S. 3931, the "Terrorist Surveillance Act of 2006." The bill was cosponsored by Chairman Specter, Majority Leader Frist, and Senator DeWine.

On November 14, 2006, Chairman Specter introduced S. 4051, the "Foreign Intelligence Surveillance Oversight and Resource Enhancement Act of 2006." Chairman Specter explained that changed circumstances warranted a changed approach: Now that numerous federal courts were considering challenges to the Terrorist Surveillance Program, Congress need not create a mechanism for judicial review. At the same time, Chairman Specter explained, the Nation needs a definitive answer as soon as possible. Accordingly, this bill would require the United States Supreme Court to provide expedited review of legal challenges to the Terrorist Surveillance Program. It would also increase congressional oversight of electronic surveillance programs and would grant additional resources to the Executive Branch to ensure prompt, efficient evaluation of surveillance requests. The bill would provide additional protections for civil liberties by ensuring that individualized FISA warrants will be sought for communications originating inside the United States. Finally, the bill would ensure that Executive Branch officials have sufficient flexibility by allowing the Executive Branch to conduct emergency surveillance for 7 days, instead of only 72 hours, and clarifying that foreign-to-foreign communications that are incidentally routed through the United States may be intercepted without a court order.

The 109th Congress took no further action on S. 4051, S. 3001, S. 2455, or S. 2453.

ANIMAL ENTERPRISE TERRORISM ACT, S. 3880

On September 8, 2006, Senator James Inhofe introduced the Animal Enterprise Terrorism Act. Committee cosponsors included Senators Brownback, Cornyn, DeWine, Hatch, Coburn and Feinstein. After introduction, Committee Members and staff worked with the bill's sponsors and the sponsors of companion legislation in the House of Representatives to craft a compromise version of the bill incorporating additional civil liberties protections. Following these negotiations, a substitute amendment (S.AMDT. 5115) was introduced by Senator Feinstein, supported by the original cosponsors. The Senate passed the substitute amendment on September 30, 2006 by unanimous consent. On suspension, the House of Representative passed the bill by voice vote on November 13, 2006. This bill responds to the growing threat of animal rights extremists who violently target, threaten, intimidate, and harass employees of medical research institutions and their families.

The Animal Enterprise Terrorism Act revises title 18, United States Code, section 43. The Act requires prosecutors to prove a "course of conduct" (defined as two or more acts) including threats, acts of vandalism, property damage, criminal trespass, harassment, or intimidation, along with the intent to cause damage. Notably, the Act permits prosecutions against individuals who engage in secondary or "tertiary" targeting. Prior to the passage of this law, prosecutors were required to prove "physical" disruption of the actual animal enterprise. Armed with a knowledge of existing law, extremists have often avoided direct involvement with the animal enterprise and opted instead to attack secondary or "tertiary targets"—such as employees, family members, and their private residences. The Act allows prosecutors to reach this conduct, yet it specifically excludes the prosecution of individuals for lawful activity protected under the First Amendment. The Act sets forth strong penalties for damage occurring to any person or property, but does not include mandatory minimum penalties or the death penalty.

President Bush signed the Animal Enterprise Terrorism Act into law on Monday, November 27, 2006 (PL 109–374).

F. COURTS & THE JUDICIARY

S. 2039, PROSECUTORS AND DEFENDERS INCENTIVE ACT OF 2005

On November 17, 2005, Senator Durbin introduced S. 2039, the "Prosecutors and Defenders Incentive Act of 2005," along with Chairman Specter, Ranking Member Leahy, and Senators Feingold, Biden, DeWine, Kennedy, Feinstein and Schumer. The legislation sought to make legal careers in public service as prosecutors or public defenders more financially viable and attractive to law school graduates by providing relief from student loan debt.

The bill was closely modeled after the existing federal Executive branch student loan repayment program. Specifically, the bill would amend the Omnibus Crime Control and Safe Streets Act of 1968 to direct the Attorney General to establish a program of student loan repayment for borrowers who agree to remain employed

for at least three years as public attorneys, either as state or local criminal prosecutors or state, local, or federal public defenders in criminal cases. The bill would limit the amount of loans covered by the program to $10,000 for any borrower in any calendar year, or an aggregate total of $60,000 for any borrower. Borrowers involuntarily separated from employment due to misconduct or who voluntarily left employment before the required three-year period would be required to repay any benefits received.

The Committee reported this measure by voice vote on May 25, 2006, but no further action was taken by the full Senate.

S. 2292, A BILL TO PROVIDE RELIEF FOR THE FEDERAL JUDICIARY FROM EXCESSIVE RENT CHARGES

Chairman Specter introduced S. 2292, "a bill to provide relief for the federal judiciary from excessive rent charges," on February 15, 2006. The measure was cosponsored by Ranking Member Leahy and Senators Biden, Feinstein, and Cornyn. The bill sought to require the General Services Administration (GSA) to charge courts only the actual costs incurred by GSA in connection with the Judiciary's use of federal buildings or GSA's leasing of space on the Judiciary's behalf. The bill would also require any costs incurred by GSA for repair and alteration projects performed on judicial branch accommodations to be recovered in a manner agreed upon by the Director of the Administrative Office of the U.S. Courts and the Administrator of GSA.

The Judiciary paid $926 million to GSA in fiscal year 2005, but GSA's actual cost of providing space to the Judiciary was only $426 million. Unlike the other branches of the federal government, the Judiciary is required to pay a large portion of its budget as rent to another branch of government. The federal courts' rental payments to GSA increased from $133 million to $926 million between 1986 and 2005, contributing to a budget crisis in the Judiciary and resulting in the reduction of staff.

On April 27, 2006, the Committee reported S. 2292 by voice vote. No further action was taken on the bill.

S. 1845, CIRCUIT COURT OF APPEALS RESTRUCTURING AND MODERNIZATION ACT OF 2005

On October 6, 2005, Senator John Ensign and Senator Kyl introduced S. 1845, the "Circuit Court of Appeals Restructuring and Modernization Act of 2005." The bill would amend the federal judicial code to divide the Ninth Judicial Circuit into two circuits: a new Ninth Circuit composed of California, Guam, Hawaii, and the Northern Mariana Islands and a Twelfth Circuit, composed of Alaska, Arizona, Idaho, Montana, Nevada, Oregon, and Washington. It would require the President to appoint five additional circuit judges for the new Ninth Circuit and two temporary judges for the former Ninth Circuit to be stationed in California. The legislation sought to reduce the size of the disproportionately large Ninth Circuit, which encompasses 40% of the nation's land mass and 20% of its population. The Ninth Circuit is not only large by those metrics, but it also has 28 authorized judgeships—11 more than the next largest circuit—and has a pending caseload that is nearly double that of the next busiest circuit.

On October 26, 2005, the Subcommittee on Administrative Oversight and the Courts, chaired by Senator Sessions, held a hearing titled, "Revisiting Proposals to Split the Ninth Circuit: An Inevitable Solution to a Growing Problem." The Honorable Diarmuid F. O'Scannlain, U.S. Circuit Judge for the Ninth Circuit, testified that "restructuring the circuit is the best way to cure the administrative ills affecting my court, an institution that has already exceeded reasonably manageable proportions." Judge O'Scannlain further opined, "Nine states, almost sixteen thousand annual case filings, forty-seven judges, and fifty-eight million people are too much for any non-discretionary appeals court to handle satisfactorily. The sheer magnitude of our court and its responsibilities negatively affects all aspects of our business, including our celerity, our consistency, our clarity, and even our collegiality. Simply put, the Ninth Circuit is too big. It is time now to take the prudent, well-established course and restructure this circuit. Restructuring large circuits is the natural evolution of judicial organization. Restructuring has worked in the past."

A second hearing on the subject was held on September 20, 2006, titled "Examining the Proposal to Restructure the Ninth Circuit." Rachel L. Brand, Assistant Attorney General for the Office of Legal Policy, reiterated the Justice Department's support for additional federal judgeships and the split of the Ninth Circuit. She noted that "the Ninth Circuit's size has led to administrative difficulties that have adversely affected its ability to operate effectively. As of September 2005, the Ninth Circuit was the slowest circuit in resolving cases. Additionally, the Ninth Circuit had the most cases pending for more than three months and for more than six months in September 2005. This inefficiency impacts negatively on both the Department of Justice, as a frequent litigant in the Ninth Circuit, and other parties waiting for their cases to be resolved."

These hearings laid the groundwork for consideration of the Ninth Circuit's future, but no further action was taken on the legislation.

S. 1968, COURT SECURITY IMPROVEMENT ACT OF 2005

The murder of the family of U.S. District Judge Joan Lefkow, the shooting rampage at the Fulton County Courthouse in Atlanta, Georgia, and the courthouse shooting in Reno, Nevada have served as tragic reminders of the urgent need to protect members of the Judiciary. On May 18, 2005, Chairman Specter held a full Committee hearing titled "Protecting the Judiciary at Home and in the Courthouse," which included powerful testimony by Judge Lefkow demonstrating the need to enhance court security. On November 7, 2005, Chairman Specter and Ranking Member Leahy introduced S. 1968, the "Court Security Improvement Act of 2005." Other Committee cosponsors included Senators Cornyn and Durbin.

S. 1968 would augment the current measures protecting the judiciary by extending the Judicial Conference's authority to redact sensitive and personal information from financial disclosure reports. The bill would also give members of the Judicial Conference a larger role in determining the security required for their protection. Moreover, the bill would create a new criminal offense for filing a false lien or encumbrance against the property of a federal

judge or other federal official, and the legislation would criminalize knowingly making restricted personal information about a covered official publicly available with the intent that the information be used to commit, or threaten to commit, a crime of violence against that official or her family.

On December 6, 2006, Chairman Specter offered and the Senate passed by unanimous consent an amendment in the nature of a substitute containing much of the substance of S. 1968. The House of Representatives, however, failed to act upon the substitute language before adjourning for the Congress.

S. 489, FEDERAL CONSENT DECREE FAIRNESS ACT

On March 1, 2005, Senator Lamar Alexander introduced S. 489, the "Federal Consent Decree Fairness Act." The bill would authorize State or local governments and related officials sued in their official capacity to file a motion to modify or vacate a consent decree upon the earlier of: (1) four years after the consent decree is originally entered; or (2) in the case of a civil action in which a State is a party or in which a local government is a party and the surrounding State is not a party, the expiration of the term of office of the highest elected State or local government official authorizing the consent decree. It would also place the burden of proof with respect to such motions on the party originally filing the action to demonstrate that continued enforcement is necessary to uphold a federal right.

On July 19, 2005, the Subcommittee on Administrative Oversight and the Courts held a hearing titled, "A Review of Federal Consent Decrees," at which Senator Sessions presided. Members heard testimony from expert witnesses, including Alabama Attorney General Troy King. Attorney General King testified in favor of S. 489, stating that the bill would "make it easier for state governments to end oppressive consent decrees, by taking the policy-making discretion away from federal judges and returning it to those who have been elected or appointed to make those decisions."

The Committee did not take further action on S. 489.

S. 829, THE SUNSHINE IN THE COURTROOM ACT OF 2005

S. 1768, A BILL TO PERMIT THE TELEVISING OF OPEN SUPREME COURT PROCEEDINGS

On April 18, 2005, Senator Grassley introduced S. 829, the "Sunshine in the Courtroom Act of 2005." The bill was cosponsored by Chairman Specter, Ranking Member Leahy, and Committee Members Cornyn, DeWine, Graham, Schumer, Feingold, and Durbin. The bill would authorize any presiding judge of any district or appellate court of the United States (including the Supreme Court) to permit the photographing, electronic recording, broadcasting, or televising of court proceedings over which that judge presides. The bill also would require, in district courts, obscuring the faces and voices of witnesses (other than a party to the case) upon their request, and would require that the presiding district judge inform each witness of his right to request that his image and voice be obscured during testimony. S. 829 would also authorize the Judicial Conference of the United States to promulgate advisory guidelines

to which a Presiding judge might refer in making decisions regarding the management and administration of photographing, recording, broadcasting, or televising proceedings. The authorization of electronic media in district courts would sunset three years after the bill's enactment.

On September 26, 2005, Chairman Specter introduced S. 1768, "A Bill to Permit the Televising of Open Supreme Court Proceedings." The bill was cosponsored by Ranking Member Leahy and Committee Members Grassley, Cornyn, Durbin, Schumer, and Feingold. The bill states that the Supreme Court "shall permit" televising of all open sessions of the court, unless the court decides by a majority vote of Justices that such coverage in a particular case would violate the due process rights of one or more of the parties before the Court.

On November 9, 2005, the full Committee held a hearing on S. 829 and S. 1768. Among those who testified at the hearing were scholars and representatives of C–SPAN, Court TV, the National Association of Criminal Defense Lawyers, and the Radio-Television News Directors Association. Two judges who participated in a three-year Judicial Conference pilot program on electronic media coverage of civil proceedings in selected federal courts also testified.

The Committee considered S. 829 during its executive business meeting on March 30, 2006. Senator Sessions' amendment to exclude district courts from televising their proceedings was rejected by a vote of 9–7. The Committee reported S. 829 by a vote of 10–6, with two Senators voting "pass." That same day, the Committee considered S. 1768 and voted 12–6 to report it out. The bills were placed on the Senate Legislative Calendar, but no further action was taken by the full Senate.

S. 3734, MULTIDISTRICT LITIGATION RESTORATION ACT OF 2005

On July 26, 2006, Senator Hatch introduced S. 3734, the "Multidistrict Litigation Restoration Act of 2005." The bill would amend the federal judicial code to allow a civil action transferred for coordinated or consolidated pretrial proceedings also to be transferred to the transferee or other district for trial purposes in the interest of justice and for the convenience of the parties and witnesses. It would require, however, that any such action transferred for trial purposes be remanded to the district court from which it was transferred for the determination of compensatory damages, unless the court determined that the same justification applied to retaining the action for a damages determination. S. 3724 would authorize the transferee court to retain actions transferred for the determination of liability and punitive damages when jurisdiction was or could have been based on the Multiparty, Multiforum Trial Jurisdiction Act of 2002. (The Multiparty, Multiforum Trial Jurisdiction Act of 2002 grants district courts original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have died in the accident at a discrete location.)

On June 29, 2006, the Subcommittee on Administrative Oversight and the Courts held a hearing to examine the legislation, which included testimony from Senior United States District Judge

Wm. Terrell Hodges and United States District Judge Thomas W. Thrash, Jr., but no further action was taken on the legislation.

II. OVERSIGHT MATTERS

The Committee pursued an active oversight agenda during both sessions of the 109th Congress, conducting investigations, holding hearings, and producing legislation and reports. Chairman Specter led oversight hearings on multiple topics, including: (1) youth violence and school violence; (2) detainees and military tribunals; (3) the operations of the Federal Bureau of Investigation (FBI) and the Department of Justice (DOJ); (4) the "Able Danger" scandal; (5) possible Saudi funding of Islamic fundamentalism within the U.S.; (6) the Foreign Intelligence Surveillance Act (FISA) and the Terrorist Surveillance Program; (7) hedge funds and the Securities and Exchange Commission (SEC); and (8) the exercise of market power by the National Football League. The Committee's oversight activities directly informed legislation on topics ranging from military tribunals to the reauthorization of the Department of Justice. The Committee also launched investigations of major league baseball and steroids, nuclear plant security, and Chinese espionage.

PREVENTION OF YOUTH VIOLENCE

On June 13, 2005, the full Committee held a field hearing at the National Constitution Center in Philadelphia, Pennsylvania titled "Prevention of Youth and Gang Violence." The hearing investigated the epidemic of youth and gang violence in the city and the nation. Although youth violence has decreased nationally in recent years, homicide is the second leading cause of death for people ages 15 to 24. Given the persistence of this problem, Chairman Specter stated that federally funded programs intended to curtail youth violence need to be reviewed to identify effective programs. Witness Sarah Hart, Director of the National Institute of Justice, testified that research indicates that boot camps, gun buyback programs, and group therapy are not effective. She opined that the most effective programs are city-specific ones where researchers work with practitioners to target local 'hot spots.' Ms. Hart promoted the approach of Project Safe Neighborhoods, which focuses resources on the most crime ridden areas.

At the hearing, Senator Feinstein discussed her bill to increase criminal penalties for gang members who recruit children. The Committee also heard testimony from Philadelphia Police Commissioner Sylvester Johnson and U.S. Attorney Patrick Meehan. Johnson said the police department would continue to work with community groups and other government agencies to find solutions. He noted that the city has developed a "Blueprint for a Safer Philadelphia" to reduce crime in the city.

DETAINEES AND MILITARY TRIBUNALS

On June 15, 2005, the Committee held a hearing to examine the procedural protections being afforded to detainees held at Guantanamo Bay, Cuba. Witnesses included Brigadier General Thomas Hemingway of the Department of Defense Office of Military Commissions; Rear Admiral James McGarrah, the Director of Administrative Review of the Detention of Enemy Combatants; Deputy Associate Attorney General Michael Wiggins; Inspector General of the Justice Department Glenn Fine; former Attorney General William

Barr; and Lieutenant Commander Charles Swift, the lawyer for detainee Salid Hamdan.

The government witnesses claimed that significant steps had been taken to protect the Guantanamo detainees' rights. For example, General Hemingway testified that the proposed military trials by a specially created commission, the first held by the United States since World War II, would have rules of evidence and trial procedures that compare favorably with those in use by the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia. Admiral McGarrah, who monitors the enemy combatant detention program for the Navy, testified that of 558 detainees given hearings before the Combatant Status Review Tribunal at Guantanamo, 520 had been classified as enemy combatants, and 23 of the remaining 38 had been released. Mr. Wiggins emphasized that the detainees were being held for military purposes, not criminal justice purposes, and thus were outside of the purview of the U.S. criminal justice system. Former Attorney General Barr argued that the Congress should not grant legal rights to these enemy combatants.

Shortly thereafter, the Supreme Court decided the case of *Hamdan* v. *Rumsfeld,* holding that the military commissions established to try detainees at Guantanamo Bay violated "both the UCMJ and the four Geneva Conventions." Chairman Specter responded by introducing S. 3614, the "Unprivileged Combatants Act of 2006." The bill attempted to balance the need for national security (including interrogation and detention of combatants) with the need to afford detainees with sufficient due process. The bill addressed only those combatants held at Guantanamo Bay. The legislation sought to clarify the procedures to be used in Combatant Status Review Tribunals and establish procedures for the trial of detainees. These procedures were constructed to constitute "a meaningful opportunity to contest the factual basis for that detention before a neutral decision-maker." *Hamdi* v. *Rumsfeld,* 542 U.S. 507 (2004) (O'Connor, J.).

On July 11, 2006, the full Committee held a hearing titled "*Hamdan* v. *Rumsfeld*: Establishing a Constitutional Process." Witnesses explained *Hamdan*'s impact on future operations in the War on Terror and offered suggestions for future legislation. The witnesses included former Solicitor General Theodore Olson, Dean of Yale Law School Harold Koh, and Lieutenant Commander Swift.

On August 2, 2006, the Committee held a hearing titled "The Authority to Prosecute Terrorists under the War Crime Provisions of Title 18." The hearing focused on the government's authority to prosecute terrorists for war crimes under Title 18 and on the efforts to establish military commissions to try terrorists detained by the United States. A draft of the Administration's bill to establish military commissions and the procedural process by which detainees should be tried was compared with S. 3614. Among the witnesses were Office of Legal Counsel Acting Assistant Attorney General Steven Bradbury, General Richard Myers, the former Chairman of the Joint Chiefs of Staff, and all four of the Judge Advocates General of the military services.

On September 25, 2006, the Committee held a hearing titled "Examining Proposals to Limit Guantanamo Detainees" Access to Ha-

beas Corpus Review." Draft legislation by the Administration and the Senate Armed Services Committee precluded detainees from filing habeas corpus petitions in federal court. The hearing focused on Chairman Specter's efforts to retain habeas corpus rights for detainees held at Guantanamo.

OVERSIGHT OF THE FEDERAL BUREAU OF INVESTIGATION

In addition to legislative hearings that involved FBI witnesses, the Committee held several hearings on general oversight of the FBI.

The Committee held an FBI oversight hearing on July 20, 2005 to investigate whether the FBI was implementing the recommendations of the National Commission on Terrorist Attacks upon the United States (the "9/11 Commission") and the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (the "WMD Commission"), as well as recommendations made by the Department of Justice ("DOJ") Inspector General in numerous reports. Witnesses included FBI Director Robert Mueller, DOJ Inspector General Glenn Fine, Vice Chairman of the 9/11 Commission and former Congressman Lee Hamilton, former FBI and CIA Director William Webster, and John Russack, the Program Manager of the Information Sharing Environment at the Office of the Director of National Intelligence.

Much of the hearing focused on problems with the FBI's technology upgrades, information sharing, and the backlog in translation of communications intercepted through electronic surveillance. Members of the Committee expressed their concerns about the lack of progress made since 9/11, particularly in regard to the failed attempt to develop a Virtual Case File system to allow for easier searching and organizing of investigative files on terrorism and other matters. Director Mueller responded by acknowledging the failure of the $170 million project but extolling the replacement Sentinel Project, which will be completed in four phases by 2009. He also stated that, although the FBI's backlog of untranslated terrorism intelligence had doubled to 8,300 hours in the previous year, none of the backlogged material involved the FBI's highest-priority investigations. He further stated that much of the backlog was attributable to "white noise" in the background from microphone recordings and the difficulty of translating obscure languages and dialects in which the bureau's linguists might not be well versed. Inspector General Fine reported that the FBI had made progress in hiring more linguists, expanding its ranks from 1,214 in April 2004 to 1,338 in March 2005, but continued to face problems. He noted, for example, that the FBI had met its hiring targets in fewer than half of 52 languages examined.

The FBI was not the only counterterrorism agency that was addressed in the Judiciary Committee hearing. John Russack, a program manager who runs the information sharing environment office for the Director of National Intelligence and who is responsible for linking federal, state, and local offices to combat terrorism, told the Committee that he had only one full-time employee and two contractors some seven months after the directorate was created. Chairman Specter commented that he was troubled by the deficient staffing at such a critical office.

The Committee held a second FBI oversight hearing on May 2, 2006, focusing on the progress of the Sentinel System and a March 2006 report by the Government Accountability Office (GAO) documenting failures of FBI intelligence collectors to share information with other members of the intelligence community. Witnesses included FBI Director Robert Mueller, Director Linda Calbom of the GAO, and DOJ Inspector General Glenn Fine.

Committee Members questioned Director Mueller on progress in intelligence sharing, FBI interrogation practices, and ongoing concerns about translations and the hiring of linguists. The hearing also focused on contemporaneous news accounts about the FBI's efforts to search the files of the late newspaper columnist Jack Anderson, and the related topic of media leaks.

Ranking Member Leahy cited what he said was more than 100 instances in which FBI agents had improperly conducted surveillance of antiwar groups. Director Mueller responded that such accounts were an apparent outgrowth of legitimate investigations to identify an individual, and he underscored that the FBI was not concerned with suppressing political dissent. Senator Grassley asked Director Mueller about reports that FBI agents had tried to trick Jack Anderson's widow into allowing a search of his files after her son and the family's lawyer refused. Director Mueller said the effort resulted from a recent discovery of information indicating that there might be classified national security documents within Mr. Anderson's collection.

The Committee held a third FBI oversight hearing on December 6, 2006, in which the sole witness was FBI Director Robert Mueller. This hearing focused primarily on post-911 federal counter-terrorism and information sharing efforts, but also touched upon (1) efforts to reform the FBI in the mold of Britain's MI5, (2) the FBI's utilization of information gleaned from the Terrorist Surveillance Program, (3) the FBI's role in the practice of so-called "extraordinary rendition," (4) the FBI's technology upgrades, and (5) the recent refusal by the FBI and the Department of Justice to brief Congress on the progress of the investigation into the Anthrax attacks that occurred in 2001.

Chairman Specter pressed Director Mueller to provide concrete examples of benefits yielded by the National Security Agency's Terrorist Surveillance Program. Senator Grassley likewise pressed for specifics on the FBI's investigation of the 2001 anthrax attacks. Director Mueller demurred on the grounds that the questions implicated classified information and an ongoing grand jury investigation. Chairman Specter asserted that Congress was entitled to information regarding such pending investigations in order to carry out its oversight function and promised to pursue the issue with the Attorney General. Senator Grassley responded with a letter, signed by Chairman Specter, Ranking Member Grassley, and numerous other Senators and representatives, demanding information.

Director Mueller also responded to Senators' questions regarding the Office of Inspector General's (OIG) December 2006 report indicating that the Sentinel project might cost significantly more than the FBI had estimated. Director Mueller expressed confidence in the total cost estimate of $425 million over the life of the program.

Director Mueller also dismissed the OIG's concern that the Sentinel project would experience a $57 million budget shortfall in 2007. He explained that although the Bush Administration had only allocated $100 million of the $157 million needed to run the program in 2007, the FBI had found another $57 million to cover the 2007 costs, and there was no danger of the FBI being forced to cut necessary programs. Director Mueller did, however, express concern about Congress' failure to pass an appropriations bill at the close of the 109th Congress, which might jeopardize the $100 million budgeted for Sentinel for 2007. He explained that if Congress did not address the situation, the FBI might be prevented from entering into a contract with Lockheed Martin to pursue phase two of the Sentinel project.

"ABLE DANGER" AND THE SHARING OF INTELLIGENCE INFORMATION

The Committee held a hearing on September 21, 2005, titled "Able Danger and Intelligence Information Sharing." The purpose of the hearing was to probe whether there was a breakdown between the military and law enforcement in the sharing of information that might have helped to prevent the events of 9/11 or another terrorist attack. The hearing was on Able Danger, a classified military intelligence program undertaken by the U.S. Special Operations Command. According to statements from various Able Danger participants, including Lieutenant Colonel Tony Shaffer, prior to the 9/11 attacks, the program had identified the attack leader Mohammed Atta and three of the other hijackers as possible members of an al Qaeda cell linked to the 1993 World Trade Center bombing. A Defense Department investigation into Able Danger, however, strongly disputed this allegation.

Witnesses included Congressman Curt Weldon, who heavily promoted the claims of Lt. Col. Shaffer; Gary Bald, the Executive Assistant Director of the FBI's National Security Branch; the Acting Assistant to the Secretary of Defense for Intelligence Oversight William Dugan; Former Army Major Erik Kleinsmith, former head of the Pentagon's Land Warfare Analysis Department; and Mark Zaid, the attorney for Lt. Col. Tony Shaffer.

The hearing explored the facts behind the Able Danger story and whether or not the government was over-aggressively interpreting the Posse Comitatus Act and other bodies of law that applied to information collection, thereby preventing any interaction between the military and the FBI. Congressman Weldon and Mr. Zaid argued that the members of the Able Danger program had identified Mohammed Atta prior to 9/11 and that they were blocked from distributing that information to the FBI. They testified that Able Danger had used data mining techniques to identify four of the terrorists who struck on September 11, 2001. Former Army Major Eric Kleinsmith testified that he was instructed to destroy data and documents related to Able Danger in May and June of 2000, in accordance with Army regulations that limited the collection and holding of information concerning U.S. persons. Kleinsmith said the order to destroy the data was not hostile or aggressive, but was only a matter of policy. When he was asked if this information could have prevented the September 11 attacks, the major said he

could not speculate but believed it would have been significant and useful.

The Committee produced a final report which stated that the various statutes, executive orders, directives, and regulations that applied to information collected in the course of the Able Danger Program did not compel destruction of such information or prevent it from being shared with law enforcement.

SAUDI ARABIA AND THE WAR ON TERRORISM

The Committee held a hearing on November 8, 2005, titled "Saudi Arabia: Friend or Foe in the War on Terror?" The hearing examined Saudi Arabia's possible propagation and funding of hate ideology within American mosques and American Islamic schools. The hearing was largely prompted by a report by the group Freedom House, which was released in January 2005. More specifically, the purpose of the hearing was to determine what efforts the Saudi Government had made to prevent the dissemination of extremist ideology. The hearing also attempted to publicize S. 1171, the "Saudi Arabian Accountability Act of 2005."

Though the Saudi government has rejected any claims that it is spreading hateful rhetoric, the Committee was provided with significant evidence to the contrary from various groups. These included the Middle East Media Research Institute's (MEMRI) TV Monitoring Project, Freedom House's Center for Religious Freedom, and the Investigative Project on Terrorism. Most powerfully, MEMRI provided clips from Saudi television shows aired by the government-controlled Iqraa television network in the U.S. from 2004 and 2005, which included calls for the annihilation of Christians and Jews, rampant anti-Americanism and anti-Semitism, support for Jihad, incitement against U.S. troops in Iraq, and discussion of the coming Islamic conquest of the U.S.

FISA AND THE TERRORIST SURVEILLANCE PROGRAM

During the second session of the 109th Congress, the Committee held a series of hearings on the National Security Agency's (NSA) Terrorist Surveillance Program. On February 6, 2006, the Committee held a hearing on "Wartime Executive Power and the NSA's Surveillance Authority." The sole witness was Attorney General Alberto Gonzales. Committee Members pressed the Attorney General to set forth the legal justification for the Administration's Terrorist Surveillance Program (TSP), which had first been reported on December 16, 2005 by the New York Times. At the hearing, Committee Members raised questions about how to balance the defense of American civil liberties with wartime Executive authority to fight terrorists. The hearing also focused on legal interpretation of the Foreign Intelligence Surveillance Act of 1978 (FISA).

On February 28, the Committee held a hearing on "Wartime Executive Power and the NSA's Surveillance Authority II." The hearing focused on whether the President had authority to institute the electronic surveillance program and the scope of his inherent power under Article II of the United States Constitution. The hearing also examined whether the Authorization for Use of Military Force adopted by Congress in September 2001 modified the FISA statute to allow for the surveillance program.

On March 28, the Judiciary Committee held a hearing on "NSA III: War Time Executive Power and the FISA Court." The witnesses included federal district court judges who had served on the Foreign Intelligence Surveillance Court. Specifically, the Committee solicited the judges' views on S. 2453, Chairman Specter's legislation the National Security Surveillance Act (NSSA).

On July 26, the Committee held another hearing on the NSSA. Government witnesses at the hearing included Lt. General Keith B. Alexander, the Director of the National Security Agency; Lt. General Michael V. Hayden, a former Director of the National Security Agency and the current Director of the Central Intelligence Agency; and Steven Bradbury, the Acting Assistant Attorney General for the Office of Legal Counsel. These witnesses argued that FISA should be updated to reflect major advances in technology. Some witnesses on the hearing's second panel, such as Jim Dempsey, Policy Director at the Center for Democracy and Technology, countered that the changes sought by the Administration were too far reaching.

THE PROBLEM OF SCHOOL VIOLENCE

On May 19, 2006, the Committee held a field hearing in Philadelphia to discuss enforcement of the Clery Act by Philadelphia area colleges and universities. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") is a federal law requiring colleges and universities to disclose certain annual and timely information about campus crime and security policies. The hearing was titled "Campus Crime: Compliance and Enforcement under the Clery Act, " and was attended by Connie Clery and Ben Clery, the mother and brother of Jeanne Clery, the murdered Lehigh University student for whom the Clery Act is named.

Witnesses included U.S. Attorney Patrick Meehan; Robert Baker, the Secretary of Education's Regional Representative; seven Philadelphia area college/university representatives; and Daniel Carter, the Senior Vice President of Security On Campus, Inc., the national non-profit organization set up by the Clery family that is devoted to assisting the victims of violence on college campuses and to improving campus security. Among the problems discussed were a lack of strong enforcement by the Justice Department and the Department of Education, the disparities in reporting statistics through the Clery Act and the Pennsylvania state law on this subject, and the incompleteness of the list of reportable crimes under the Clery Act.

HEDGE FUND AND SEC OVERSIGHT

As part of its oversight responsibilities to address and prevent corporate fraud, the Committee examined the enforcement of insider trading and corporate fraud regulations by the Department of Justice and Securities and Exchange Commission (SEC) against the hedge fund industry. Over the past few years, public attention has focused on the activities of hedge funds—largely unregulated, private investment pools of exclusive investors that buy and sell stocks, bonds, derivatives, and other investment assets. Frequently characterized as offering high risk and high returns, hedge funds

have evolved into a dominant force in today's marketplace. Indeed, the Department of Treasury estimates that some 9,000 hedge funds manage approximately $1 trillion in assets, an amount equal to about 7% of total U.S. financial net worth.

The Committee scheduled a series of three hearings to assess whether federal enforcement was effective in fighting possible illegal insider trading and market manipulation by hedge funds. In its first hearing on June 28, 2006, the Committee examined whether hedge funds had conspired with so-called independent research analysts in disseminating negative information about companies targeted as part of an elaborate "short-selling" scheme. At this hearing, the Committee also received testimony from a former SEC employee, Gary Aguirre, who alleged that his attempts to investigate one of the nation's largest hedge funds was thwarted by his supervisors at SEC when he focused his inquiry on a high-profile Wall Street executive with powerful political ties. The Committee's second hearing on September 26, 2006 examined alarming reports that possible criminal insider trading was on the rise. This hearing came on the heels of a study showing increased trading activity in the days and weeks before major corporate mergers (over $1 billion or more in value) became public over the past year. After hearing testimony from federal enforcement officials and industry experts about existing challenges facing the prosecution of insider trading cases, Chairman Specter began drafting legislation aimed at strengthening criminal enforcement actions in these matters and to protect investors from fraud.

At the third and final hearing, the Committee heard testimony from the Department of Justice and State Attorney General Richard Blumenthal regarding the Chairman's proposed draft legislation, titled the "Criminal Misuse of Material Non-Public Information and Investor Protection Act of 2006." During the hearing, the Committee also heard follow-up testimony on the allegations raised by former SEC employee Gary Aguirre during the Committee's first hearing in June 2006. Following that hearing, the Committee had conducted an extensive joint investigation with the Senate Finance Committee concerning Mr. Aguirre's allegations. The Committee intends to submit more detailed findings regarding this matter at a later time.

THE NATIONAL FOOTBALL LEAGUE AND THE SPORTS BROADCASTING ACT

The Committee examined the joint sale of the rights to televise games by the members of professional sports leagues, in particular the member teams of the National Football League (NFL). On November 14, 2006, the Committee held a hearing on two recent examples of the exercise of market power by the NFL. In November 2004, the NFL accepted $3.5 billion from DirecTV, a satellite television provider, for the exclusive right to carry the "NFL Sunday Ticket," a package of all NFL games played on Sunday afternoons, for five years. The NFL member teams authorized the NFL to contract on their behalf for the sale of rights to DirecTV. Each NFL member team has agreed with the other NFL teams not to compete in the sale of such rights. DirecTV's "Sunday Ticket" is the only way viewers are guaranteed to see the Sunday afternoon game of

their choice regardless of where they reside. Critics have argued that the exclusive nature of the NFL's deal with DirecTV makes the cost of viewing games included in the "Sunday Ticket" package more expensive.

The joint sale of television rights by the member teams of the NFL has previously been found to violate Section 1 of the Sherman Act. In *United States* v. *NFL*,[3] the Eastern District of Pennsylvania concluded that an agreement among NFL member teams to jointly sell the rights to broadcast their games to CBS violated the antitrust laws. Prior to 1961 when the NFL member teams entered the joint agreement, each member team individually negotiated and sold the television rights to its games. The court concluded that, "by agreement, the member clubs of the League have eliminated competition among themselves in the sale of television rights to their games."[4]

Congress reversed the decision in *United States* v. *NFL* when it enacted the Sports Broadcasting Act, legislation that was reported by the Judiciary Committee. The Act provides that the antitrust laws shall not apply to any agreement among the member teams of a professional sports league to jointly sell "sponsored telecasting" of their games.[5] Over the years, the NFL and other sports leagues have argued that the antitrust exemption contained in the Sports Broadcasting Act protects their dealings with subscription television service providers, including satellite and cable providers.

The legislative history, however, indicates that Congress did not intend for this legislation to apply to subscription television. The Antitrust Subcommittee of the House Judiciary Committee issued a report on the legislation specifically stating that "[t]he bill does not apply to closed circuit or subscription television."[6] In addition, at the Subcommittee's hearing on the bill, then-NFL Commissioner Pete Rozelle conceded on the record that the bill "cover[ed] only the free telecasting of professional sports contests, and does not cover pay T.V."[7] Thus, the Sports Broadcasting Act does not exempt the NFL's deal with DirecTV from antitrust scrutiny.

The hearing also examined the NFL's conduct with respect to the NFL Network. The National Football League founded and owns the NFL Network, which provides in-depth coverage of the NFL. Beginning Thanksgiving Day, the NFL Network offered a package of eight high-profile football games. Viewers were able to see their local teams play, but had to turn to the NFL Network to see any of the eight games in which no local team was playing. The NFL reportedly asked for a 250 percent increase in monthly license fees for the eight games. In addition, the NFL insisted that programming distributors carry the NFL Network games as part of their "basic" service tier, not just premium tiers. Since programming distributors pay for programming on a per subscriber basis, this requirement significantly increases the cost of carrying the NFL Network.

---

[3] 196 F. Supp. 445 (E.D. Pa. 1961).
[4] *Id.* at 447.
[5] 15 U.S.C. § 1291 (2004).
[6] Telecasting of Professional Sports Contests: Hearing Before the Antitrust Committee of the House Committee on the Judiciary on H.R. 8757, 87th Cong. 1st Sess. At 4 (Sept. 13, 1961).
[7] *Id.* At 36.

A number of cable television providers, including Time Warner and Cablevision, have refused to pay the increased price and have decided not to carry the NFL Network. Another major provider, Comcast, agreed to carry the network for one year, but then reportedly plans to carry it on a premium sports tier only.[8] Because either Time Warner or Comcast dominates the cable television market in many areas of the country, cable subscribers nationwide may not be able to view the NFL Network games either now or in the future. But two major satellite providers, DISH Network and DirecTV, and numerous smaller cable providers have decided to carry the network.

The agreement by the member teams of the NFL to sell jointly the opportunity to carry the NFL Network implicates the antitrust laws in the same way that the NFL's "Sunday Ticket" deal with DirecTV does. The NFL member teams appear to have agreed to restrict output and increase the price of NFL football telecasts by jointly selling the NFL Network games as a package.

At the hearing, the NFL and DirecTV both testified that consumers had benefited from Sunday Ticket and the NFL Network. Mr. Jeffrey Pash, the Executive Vice President and General Counsel of the NFL argued that, by operating jointly, the league produces a product—professional football—that its members could not produce acting independently. Mr. Pash also pointed out that DirecTV had expanded the number of games available to viewers. Daniel M. Fawcett, Executive Vice President, Business and Legal Affairs and Programming Acquisition at DirecTV testified that having the exclusive rights to "Sunday Ticket" had enabled DirecTV to compete, and thereby increase competition and consumer choice, in the market for subscription television. However, Time Warner Cable and Professor Roger Noll of Stanford University testified regarding the negative impact of arrangements such as the Sunday Ticket and NFL Network on consumers. Mr. Landel Hobbs, the Chief Operating Officer of Time Warner testified that the NFL had used their market power to significantly increase the cost of carrying professional football games. Mr. Hobbs urged the Committee to consider repealing the Sports Broadcasting Act to prevent the NFL and other professional sports leagues from abusing their market power. Professor Noll characterized the NFL's decision to air eight professional football games exclusively on the NFL Network as a "profit-enhancing reduction in output." Professor Noll urged the Committee to consider sunsetting the Sports Broadcasting Act over a period of five years.

At an additional hearing on December 7, 2006, David Cohen, the Executive Vice President of Comcast urged the Committee to consider conditioning the antitrust exemption in the Sports Broadcasting Act on leagues making their television rights available on a non-exclusive basis. At the conclusion of this hearing, Chairman Specter committed to introducing legislation amending the Sports Broadcasting Act in a way that would prevent the NFL and other professional sports leagues from exercising excessive market power in the market for television rights.

[8] It is unclear, however, whether Comcast is allowed to do that under its contract with the network.

OVERSIGHT OF THE JUSTICE DEPARTMENT'S CIVIL RIGHTS DIVISION

The Committee held an oversight hearing regarding the Justice Department's Civil Rights Division on November 16, 2006. Wan Kim, the Assistant Attorney General for Civil Rights, was the primary witness. The Committee also heard from several outside experts and former Division officials, including Michael Carvin, Partner, Jones Day; Theodore Shaw, Director-Counsel and President of the NAACP Legal Defense and Educational Fund, Inc.; Robert Driscoll, Partner, Alston & Bird; and Joseph Rich, Director, Fair Housing and Community Development at the Lawyers' Committee for Civil Rights Under Law.

The hearing explored several media reports questioning whether, since 1999, the Division had been pursuing fewer cases of discrimination against African Americans, whether the division's hiring process had become more partisan, and whether the recommendations of the career staff have been ignored and overruled by the political appointees in the "front office" of the CRD.

In his testimony, Assistant Attorney General Wan Kim stated that he welcomed congressional involvement. He sought to refute the media criticisms by praising the work of the Division and detailing its successes. He acknowledged that the Division had changed some hiring practices, but he clarified that the changes applied only to the honors program, through which the Division recruits attorneys fresh from law school. Kim explained that the Division had not significantly altered its hiring process for established attorneys and emphasized, "[I]deology is not a factor in my hiring process." He assured the Committee that the Justice Department's Civil Rights Division hired only "talented lawyers" who "share a commitment for the work that we do in the division."

Chairman Specter challenged Kim concerning several voting-rights decisions, in which the Civil Rights Division declined to object to a Georgia voter ID law that was later ruled unconstitutional by a federal court. Kim explained that Congress had not granted the Division the power to object to Georgia's voter ID law and emphasized that partisanship was not involved in the decision. Ranking Member Leahy and Senator Schumer criticized Kim for failing to investigate various election scandals. When Kim responded that prosecuting election fraud had been vested in the Criminal Division, not the Civil Rights Division, Ranking Member Leahy and Senator Schumer encouraged the Civil Rights Division to become involved.

III. NOMINATIONS

The Committee on the Judiciary conducted 35 nominations hearings during the 109th Congress, including hearings for two Supreme Court nominees and one for the Attorney General nominee. The Committee reported out two Supreme Court nominees, 19 court of appeals nominees, and 48 district court nominees, as well as a number of executive branch nominees. With respect to Article III judges, the 109th Congress confirmed two Supreme Court Justices, 16 court of appeals judges, 35 district court judges and one judge for the Court of International Trade. As of the filing of this report, the vacancy rate for court of appeals judges stands at 8.4%, that of district court judges is 5.5%, and the overall vacancy rate for Article III judges is 6.0%.

A. NOTABLE JUDICIAL NOMINATIONS

1. UNITED STATES SUPREME COURT

NOMINATION OF JOHN G. ROBERTS, JR., TO BE CHIEF JUSTICE OF THE UNITED STATES

Justice Sandra Day O'Connor's announcement, on July 1, 2005, that she would retire from the Supreme Court upon the confirmation of her replacement ended the Court's longest period of continuity since 1823. The Supreme Court's membership had not changed since 1994, when Justice Breyer was confirmed.

Eighteen days after Justice O'Connor's announcement, President Bush nominated John G. Roberts Jr., a judge on the U.S. Court of Appeals for the District of Columbia, to fill her seat. Chief Justice Roberts had a stellar resume, having graduated Harvard College *summa cum laude* and Harvard Law School *magna cum laude* and clerking for Judge Friendly of the Court of Appeals for the Second Circuit and next then-Associate Justice William Rehnquist.

Following his clerkships, Chief Justice Roberts served as a Special Assistant to the Attorney General and then as an Associate White House Counsel from 1982 to 1986. He moved to private practice in 1986, becoming an associate at the Washington, DC law firm of Hogan & Hartson. Three years later, he returned to public service as Deputy Solicitor General in President George H.W. Bush's administration.

In 1992, President George H.W. Bush nominated Chief Justice Roberts to the U.S. Court of Appeals for the District of Columbia. The Senate, however, did not act on the nomination, and he returned to Hogan & Hartson where he headed the firm's appellate practice, arguing 39 cases before the U.S. Supreme Court and establishing himself as one the nation's leading appellate advocates.

In 2001, President George W. Bush nominated Chief Justice Roberts to the U.S. Court of Appeals for the District of Columbia. The Democratic-controlled Senate did not vote on the confirmation. On January 7, 2003, President Bush re-nominated Chief Justice Roberts for the U.S. Court of Appeals for the District of Columbia. He was approved by the Senate under unanimous consent on May 8, 2003. He was serving in this capacity when President Bush nominated him to the Supreme Court.

Just days before John Roberts's confirmation hearings were to begin, Chief Justice Rehnquist passed away, leaving two vacancies on the Court. On September 6, 2005, President Bush withdrew Judge Roberts' nomination to be Associate Justice and nominated him to be Chief Justice of the United States.

Confirmation hearings began on September 12, 2005 and lasted 4 days. Senators and the Chief Justice made opening statements on the first day in the historic Russell Caucus Room. The hearing then moved to the Senate Central Hearing Room for questioning. Two rounds of questioning ensued, consuming the second and third day of the hearing. Following the second round, six Democratic Senators asked for an additional round of questioning, and the Chairman granted their request. Once the third round of questioning was completed, the Committee followed established precedent and moved under Senate rule XXVI into closed session to review the FBI's report on Judge Roberts. Both the Chairman and Ranking Member agreed that there was nothing disqualifying in the report. The fourth day concluded with the testimony of the American Bar Association, as well as 30 other witnesses. The ABA found Judge Roberts to be "unanimously well-qualified" for the position of Chief Justice of the United States. The remaining witnesses were split between those who supported the nomination, and those who opposed it. These witnesses ranged from former colleagues of Chief Justice Roberts to the heads of prominent interest groups.

Over the course of the hearing, Senators asked Chief Justice Roberts 673 questions. He was asked 490 questions on the first two days alone. This is well beyond the number of questions posed to either Justice Ginsburg (384) or Justice Breyer (355) during the entirety of their respective confirmation hearings. These questions focused primarily on Roberts' view of the role of the federal government, his thoughts on the right to privacy and his commitment to stare decisis. The Committee exhaustively reviewed the Chief Justice's writings—everything from articles he wrote for his high school newspaper to his most recent opinions as a judge on the U.S. Court of Appeals for the District of Columbia. The Committee also examined past confirmation hearings for a number of prior Supreme Court nominations and discussed the acceptable scope for both questions and responses.

During the two and a half months between his original nomination and his confirmation as Chief Justice, the Committee received over 100,000 pages of documents. Many news agencies warned of a "circus-like atmosphere" because this was the first Supreme Court nomination since the rise of the Internet and around-the-clock news. However, the hearings went very smoothly with no disturbances.

One week after the conclusion of the confirmation hearings, the Committee favorably reported Judge Roberts' nomination to the Senate floor by a vote of 13–5, with the Committee's 10 Republicans, Ranking Member Leahy, and Senators Kohl and Feingold supporting Judge Roberts. The nomination was debated on the Senate floor for four days, and on September 29, 2005, Chief Justice Roberts was confirmed by a vote of 78–22.

NOMINATION OF HARRIET E. MIERS, TO BE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

On October 3, 2005, President Bush nominated White House Counsel Harriet Miers to fill the vacancy left by Justice O'Connor's retirement from the Court.

Following the nomination, the Committee began preparation for her confirmation hearing, reviewing thousands of pages of government documents, articles, cases, and speeches written by or involving Ms. Miers. Later that month, before hearings could commence, the President withdrew the nomination.

NOMINATION OF SAMUEL A. ALITO, JR., TO BE ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT

On October 31, 2005, the President announced the nomination of Samuel A. Alito, Jr., a judge on the U.S. Court of Appeals for the Third Circuit, to fill Justice Sandra Day O'Connor's seat.

Justice Alito had devoted nearly the entirety of his career to serving the public. After graduating from Princeton University, where he participated in the ROTC program, and Yale Law School, where he won awards for best moot court argument and best contribution to the Yale Law Journal, Justice Alito served active duty in the U.S. Army in Fort Gordon, Georgia. From 1976 to 1977, Justice Alito served as a law clerk to the Honorable Judge Leonard I. Garth of the U.S. Court of Appeals for the Third Circuit. He then served for four years as an Assistant U.S. Attorney for the District of New Jersey, four years as Assistant to the United States Solicitor General, and two years as a Deputy Assistant Attorney General in the Office of Legal Counsel at the Department of Justice.

In his roles in both the Office of Legal Counsel and the Office of the Solicitor General, Justice Alito was exposed to and provided legal advice on virtually every type of case on the Supreme Court's docket. In 1987, after his service in the Office of Legal Counsel, he returned to New Jersey, where he served for three years as the U.S. Attorney for the District of New Jersey.

In 1990, President George H.W. Bush nominated Alito to serve as a judge on the U.S. Court of Appeals for the Third Circuit. On April 27, 1990, the Senate unanimously confirmed his nomination. Justice Alito's fifteen-year tenure on the Third Circuit was longer than that of any of the current members of the Supreme Court prior to nomination. He was serving in this capacity in 2005 when the President nominated him to be an Associate Justice on the Supreme Court.

The Judiciary Committee reviewed tens of thousands of pages of documents from Justice Alito's extensive career, including the 4800 cases in which Justice Alito participated as an appellate judge; government documents from Alito's service in the Office of Legal Counsel and the Solicitor General's Office, 46 briefs and petitions from cases Alito handled before the Supreme Court; 34 briefs from cases that Alito handled before the Courts of Appeals, and 43 articles and speeches Alito had authored.

The hearings on Justice Alito's nomination were held over five days beginning January 9, 2006. On the first day, Senators each had approximately ten minutes to give opening statements. The

nominee was then introduced by Senator Frank Lautenburg and former Governor of New Jersey Christie Todd Whitman. Senator Jon Corzine also sent a letter of introduction. Justice Alito offered a brief opening statement.

Over the course of the hearings, the nominee was questioned for nearly 18 hours, and answered more than 650 questions—over 97% of the questions asked. By comparison, Chief Justice Roberts, Justice Breyer, and Justice Ginsburg, each answered a smaller percentage of the questions posed to them during their confirmation hearings-89%, 82%, and 80%, respectively. Also, on January 12, 2006, Justice Alito appeared before the Committee in a closed session, pursuant to rule XXVI of the Standing Rules of the Senate.

Throughout the hearings, the Committee carefully and thoroughly questioned Justice Alito on his background, qualifications, integrity, and judicial temperament. The Committee investigated concerns raised about Justice Alito's recusal practices in cases involving mutual funds and his apparent past membership in a group known as the Concerned Alumni of Princeton. The Committee scrutinized Justice Alito's commitment to the separation of powers, equal justice under the law, due process, judicial restraint, and stare decisis. Justice Alito explained that he approaches every legal issue with a fair and open mind.

In addition to Justice Alito's testimony, the Committee heard the testimony of an additional 32 witnesses. Among these witnesses were a representative of the American Bar Association, which unanimously awarded Justice Alito's its highest rating of well qualified, fellow judges on the Third Circuit, former law clerks, distinguished academics, and representatives from outside interest groups.

Written questions to the nominee were submitted within 24 hours of the hearings' close by Ranking Member Leahy and Senators Kennedy, Biden, Schumer, Durbin, and Coburn. Ranking Member Leahy also submitted questions on behalf of Senator Levin. An Executive Business Meeting scheduled for January 17 was delayed by one week when Committee Democrats exercised their right to hold over the nomination by one week. On January 20, Justice Alito returned answers to the post-hearing written questions.

On January 24, the Committee voted 10–8 to report the nomination with a favorable recommendation. Voting in favor of the nomination were Chairman Specter and Senators Hatch, Grassley, Kyl, DeWine, Sessions, Graham, Cornyn, Brownback, and Coburn. Voting against the nomination were Ranking Member Leahy and Senators Kennedy, Biden, Kohl, Feinstein, Feingold, Schumer, and Durbin. On January 31, 2006, Justice Alito was confirmed by a vote of 58–42 by the United States Senate. He was sworn in on the same day by President Bush.

2. UNITED STATES COURTS OF APPEALS

TERRENCE W. BOYLE, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

President Bush re-nominated Terrence W. Boyle of North Carolina to the United States Court of Appeals for the Fourth Circuit September 5, 2006. This was the sixth time he was so nominated.

Judge Boyle received a B.A. with honors from Brown University in 1967 and a J.D. from the American University Washington College of Law in 1970. Following law school, Judge Boyle began his legal career working as Minority Counsel to the House Subcommittee on Housing, Banking, and Currency. He later served as Legislative Assistant to United States Senator Jesse Helms before entering private practice in 1974. From 1974–1976, Judge Boyle was an associate at LeRoy, Wells, Shaw, Hornthal & Riley before being promoted to partner at the firm.

In 1984, President Reagan nominated Judge Boyle to the United States District Court for the Eastern District of North Carolina. Judge Boyle was unanimously confirmed on April 24, 1984. Judge Boyle has served on the federal bench for over 20 years, including serving as chief judge for seven years and frequently sitting by designation on the Fourth Circuit.

Judge Boyle's nomination to the Fourth Circuit was strongly opposed by the Minority, whose leadership threatened to filibuster the nomination on the floor. In May 2006, after the nomination had been reported out of Committee, ethics allegations arose concerning Judge Boyle's participation in cases involving corporations in which he owned stock. Committee staff investigated the allegation by extensively interviewing Judge Boyle about the matter, and the judge wrote a letter to Chairman Specter and Majority Leader Frist explaining his involvement. While Judge Boyle did admit to having participated in cases in which he held an interest in one of the litigants, there was no evidence of self-enrichment. During his hearing, some Committee Members suggested that Judge Boyle had a high reversal rate, but upon further examination by Committee staff, it was determined that his reversal rate was below average for federal judges. His nomination was also opposed by some outside groups including disability groups, minority groups, women's groups, and several law enforcement organizations. Most of these groups questioned the soundness of his rulings in a number of cases of particular interest to their constituencies.

Judge Boyle was first nominated to the Court of Appeals for the Fourth Circuit in 1991, during the 102nd Congress. No action was taken on his nomination at that time. On May 9, 2001, during the 107th Congress, Judge Boyle was again nominated to the Court of Appeals for the Fourth Circuit, and he has been re-nominated in every subsequent Congress. Because former Senator John Edwards refused to return a blue slip[9] on the nomination, a hearing was not held on the nomination until March 3, 2005, during the 108th Con-

[9] When the Senate receives a judicial nomination, the Chairman issues so-called "blue slips" to the nominee's home state Senators. These documents solicit the views of the Senators on the nomination. When Senators return a blue slip to the Chairman, they may indicate their support or opposition to the nomination. The weight afforded negative or unreturned blue slips has always been significant, though the precise impact has varied over the years.

gress. Judge Boyle's nomination was later reported out of Committee by a party line vote on June 16, 2005. No floor action was taken on his nomination on the floor. His nomination was returned to the President on August 3, 2006, and he was re- nominated on September 5, 2006 without Committee action being taken before being returned again by the Senate on September 29, 2006. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

JANICE ROGERS BROWN, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

President Bush re-nominated Janice Rogers Brown of California to the United States Court of Appeals for the District of Columbia on February 14, 2005. This was the second time she was nominated to that court.

Judge Brown received her B.A. from California State University in 1974. In 1977, she received her J.D. from the University of California, Los Angeles, School of Law. In 2004, she received an LL.M. from the University of Virginia School of Law. Following her graduation from U.C.L.A. law school, Judge Brown began her legal career as a deputy legislative counsel in the State of California Legislative Counsel Bureau, where for two years she assisted the legislature with bill drafting and provided legal advice on questions relating to proposed legislation. She then became a deputy attorney general in the California Attorney General's office, first in the criminal division, then in the civil division. While in the Civil Division, Government Section, of the Attorney General's Office, Judge Brown represented constitutional officers and other high ranking state officials. Her responsibilities included administrative hearings and general civil litigation ranging from contract disputes to political law violations to major class action suits.

In 1987, Judge Brown left the Attorney General's office to become the Deputy Secretary and General Counsel for the State of California Business, Transportation and Housing Agency, where she supervised state business and regulatory departments. She also chaired the White Collar Crime Task Force, an informal working group designed to improve investigation and prosecution of major fraud cases. Judge Brown entered private practice in 1990 when she joined the law firm of Nielsen, Merksamer, Parinello, Mueller & Naylor as a senior associate. She practiced in the government law section, specializing in areas related to energy, environment, and managed health care. She returned to public service in 1991, when she accepted a position as Legal Affairs Secretary to Governor Pete Wilson of California. In that capacity, she provided the governor and members of his cabinet and senior staff with advice concerning litigation, legislation, and the legal implications of proposed policies. In 1994, Governor Wilson appointed Judge Brown to the California Court of Appeal, Third District, as an associate justice.

Two years later, Governor Wilson elevated her to the California State Supreme Court. Judge Brown's nomination was surrounded by considerable controversy. Opponents of the nomination objected to rulings she made in certain cases and strongly objected to colorful statements she had made in public speeches. Her critics argued

that some of these speeches reflected views "out of the mainstream" of legal thought. Judge Brown noted that, especially when speaking to students, she often took provocative positions to spark debate. Later, at her hearing, she stated, "in making a speech to that kind of audience, I'm really trying to stir the pot a little bit, to get people to think, to challenge them a little bit, and so that's what that speech is designed to do." Although the nomination was not for a position in the circuit of her home state of California, both Senator Feinstein and Senator Boxer opposed the nomination.

Judge Brown was first nominated for this seat in the 108th Congress on July 25, 2003, but her nomination was filibustered when a motion to invoke cloture failed on November 14, 2003. Because a hearing had already been conducted during the 108th Congress (on October 22, 2003), no hearing was scheduled during the 109th Congress. The nomination was favorably reported out of Committee by a vote of 10 to 8 on April 21, 2005, but was expected to be filibustered again when it came to the floor. The so-called "Gang of 14" agreement concerning judicial filibusters was announced on May 23, 2005. The document, appended to this report, ensured that cloture would be invoked on this nomination and Judge Brown was confirmed by the Senate by a vote of 56 to 43 on June 8, 2005.

MICHAEL A. CHAGARES, UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

President Bush nominated Michael A. Chagares of New Jersey to be a judge on the United States Court of Appeals for the Third Circuit on January 25, 2006.

Judge Chagares received his B.A. from Gettysburg College in 1984 and his J.D. with honors from Seton Hall School of Law in 1987. While at Seton Hall, he served as an editor of the law review. After law school, Judge Chagares clerked for the Honorable Morton I. Greenberg on the United States Court of Appeals for the Third Circuit. After his clerkship, he entered private practice as an associate with McCarter & English in 1988.

In 1990, Judge Chagares joined the United States Attorney's Office for the District of New Jersey. As an assistant United States attorney, he mainly practiced civil litigation, handling discrimination, civil rights, regulatory, and constitutional cases. In 1999, Judge Chagares became Chief of the Civil Division of the United States Attorney's Office. A significant portion of his practice was at the appellate level. During this stage of his career, he argued over 100 cases before the Third Circuit. In 2004, he returned to private practice when he became a partner at Cole, Schotz, Meisel, Forman & Leonard.

On March 14, 2006, the Committee held a hearing on Judge Chagares' nomination. On March 30, 2006, the Committee reported Judge Chagares' nomination favorably by voice vote. The Senate confirmed him on April 4, 2006 by a unanimous vote of 98–0.

NEIL M. GORSUCH, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

President Bush nominated Neil M. Gorsuch of Colorado to the United States Court of Appeals for the Tenth Circuit on May 10, 2006.

Judge Gorsuch received his B.A., with honors, from Columbia University in 1988 and his J.D., with honors, from Harvard Law School in 1991. He received a doctorate in legal philosophy from Oxford University in 2004. Following his 1991 graduation from law school, Judge Gorsuch served as a law clerk to Judge David B. Sentelle of the United States Court of Appeals for the District of Columbia. Between 1993 and 1994, he served as a law clerk to Justices Byron White and Anthony Kennedy. In 1995, Judge Gorsuch joined the law firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C. as an associate. He joined the partnership in 1998. In 2005, Judge Gorsuch joined the United States Department of Justice as Principal Deputy Associate Attorney General. A hearing was held on the nomination on June 21, 2006 and it was favorably reported out of Committee by voice vote on July 13, 2006. Judge Gorsuch was confirmed by the Senate by voice vote on July 20, 2006.

RICHARD A. GRIFFIN, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush re-nominated Richard A. Griffin of Michigan to be a judge on the United States Court of Appeals for the Sixth Circuit on January 7, 2003. This was the third time he was nominated to that court.

Judge Griffin received a B.A., magna cum laude, from Western Michigan University Honors College in 1973 and a J.D. from University of Michigan Law School in 1977. Following law school, Judge Griffin spent eleven years in the private practice of law, first as an associate at Williams, Coulter, Cunningham, Davison & Read from 1977–1981, then as a partner from 1981–1985. In 1985, Judge Griffin founded the firm Read & Griffin, in Traverse City, Michigan. While in private practice, Judge Griffin specialized in automobile negligence, premises liability, products liability, and employment law. In 1988, Judge Griffin was elected to the Michigan Court of Appeals. Judge Griffin was elected to retain his seat in 1996 and again in 2002.

Judge Griffin was first nominated to the Sixth Circuit on June 26, 2002 during the 107th Congress. At that point, no action was taken. Judge Griffin was re-nominated on January 7, 2003. He had a hearing on June 16, 2004. The nomination was reported out of Committee on July 20, 2004, by a vote of 10–9. On the floor, the nomination was filibustered when a motion to invoke cloture failed on July 22, 2004. Although no substantive objections were raised with respect to Judge Griffin's nomination, it did encounter opposition stemming from a long running dispute between the Administration and home state senators with respect to the staffing of the federal bench in Michigan.

President Bush again re-nominated Judge Griffin on February 14, 2005. Because a hearing had already been held in the previous Congress (on June 16, 2004), the Committee did not hold a second hearing on the nomination. On May 26, 2005, the Committee reported Judge Griffin's nomination favorably by voice vote. The Senate confirmed his nomination by a vote of 95–0 on June 9, 2005.

THOMAS B. GRIFFITH, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

President Bush re-nominated Thomas Griffith of Utah to be a judge on the United States Court of Appeals for the District of Columbia Circuit on February 14, 2005. This was the second time the was nominated to that position.

Judge Griffith graduated summa cum laude from Brigham Young University in 1978 and earned his J.D. from the University of Virginia School of Law in 1985. Following graduation from law school, Mr. Griffith became an associate with the law firm of Robinson, Bradshaw, and Hinson in Charlotte, North Carolina. In 1989, he joined the Washington, D.C. law firm of Wiley, Rein, and Fielding as an associate. He was elected to the partnership of that firm in 1993.

In 1995, the United States Senate, by a unanimous resolution sponsored by the Republican and Democratic Leaders, appointed Mr. Griffith to the non-partisan position of Senate Legal Counsel of the United States, an office he held until 1999. As the chief legal officer of the United States Senate, Mr. Griffith represented the Senate, its committees, Members, officers, and employees in litigation relating to constitutional powers and privileges and advised committees about investigatory powers and procedures. Mr. Griffith represented the institutional interests of the Senate in numerous investigations, during the impeachment trial of President Clinton, and in the litigation concerning the line-item veto, which resulted in two landmark decisions by the United States Supreme Court. Following his service as Senate Legal Counsel, Mr. Griffith returned to Wiley, Rein, and Fielding in 1999. In 2000, Mr. Griffith left Washington, D.C. to serve as Assistant to the President and General Counsel of Brigham Young University (BYU).

Three issues emerged during pendency of the Griffith nomination for which he was attacked: (1) his failure to pay his DC bar dues during his service as Counsel to the United States Senate; (2) whether he was engaged in the unauthorized practice of law by working as Bringham Young University's General Counsel without being admitted to the Utah bar; and (3) his views on Title IX. Many Members of the Senate recalled Judge Griffith's exemplary service as Counsel to the United States Senate during the impeachment proceedings for President Clinton. Five past presidents of the Utah bar wrote to the Judiciary Committee explaining that in their opinion, Judge Griffith had conducted himself appropriately during his service as General Counsel to BYU.

Judge Griffith was first nominated during the 108th Congress, on May 10, 2004. A hearing was held on the Griffith nomination on November 16, 2004. The Committee did not convene any executive business meetings after the hearing, so the nomination was not reported to the floor during the 108th Congress. The nomination was returned to the President on December 8, 2004. When Judge Griffith was re-nominated in the 109th Congress, a second hearing was held on March 8, 2005. The nomination was reported out of Committee on April 14, 2005 by a vote of 14 to 4, and he was confirmed by the Senate on June 14, 2005 by a vote of 73 to 24.

THOMAS MICHAEL HARDIMAN, UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

President Bush nominated Thomas Michael Hardiman to be a judge on the United States Court of Appeals for the Third Circuit on September 13, 2006.

Judge Hardiman received his B.A. from the University of Notre Dame in 1987, where he was a Notre Dame Scholar, and his J.D. from Georgetown University Law Center in 1990. At Georgetown, he was an Associate Editor and the Notes & Comment Editor of the Georgetown Law Journal. After law school, Judge Hardiman joined the Washington, D.C. office of Skadden, Arps, Slate, Meagher & Flom as a litigation associate. In 1992, Judge Hardiman joined the litigation group of Cindrich & Titus in Pittsburgh, which later became Titus & McConomy. In 1996, he was elected partner. As a partner, Judge Hardiman had an active civil and criminal litigation practice in federal and state courts. His diverse practice included cases involving real estate, injunctions, civil rights, securities, constitutional law, taxation, and non-competitive agreements. In 1999, Judge Hardiman joined the law firm of Reed Smith as a partner.

In 2003, President Bush nominated Judge Hardiman to be a U.S. District Judge for the Western District of Pennsylvania. The Senate confirmed Judge Hardiman by voice vote on October 22, 2003.

A hearing was held on Judge Hardiman's nomination to the Third Circuit on November 14, 2006. No further action was taken on his nomination in the 109th Congress.

WILLIAM JAMES HAYNES, II, UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

President Bush re-nominated William Haynes of Virginia to be a judge on the United States Court of Appeals for Fourth Circuit on September 5, 2006. This was the third time he was nominated to that position.

Mr. Haynes graduated Phi Beta Kappa and Omicron Delta Kappa from Davidson College in 1980. He received a J.D. from Harvard Law School in 1983. After law school, Mr. Haynes clerked for the Honorable James B. McMillan, United States District Judge for the Western District of North Carolina. He then spent four years as an officer in the United States Army. Following his honorable discharge from the Army, Mr. Haynes served as Counsel to the Transition at the Department of Defense from January through April of 1989 before becoming an associate in the Washington, D.C. firm of Sutherland, Asbill and Brennan, where he handled antitrust regulation matters.

In November of 1989, Mr. Haynes returned to government service, becoming the Special Assistant to the General Counsel of the Department of Defense. In March of 1990, he was nominated by President George H.W. Bush and confirmed unanimously by the United States Senate to serve as the General Counsel of the Department of the Army. Subsequent to this service, Mr. Haynes returned to private practice as a partner in the Washington, D.C. law firm of Jenner & Block where he worked from 1993 through 1996.

From July of 1996 through January of 1999, Mr. Haynes was Associate General Counsel and Staff Vice President for General Dynamics Corporation, and from 1997 through 1998 he also served as General Counsel of General Dynamics Corporation's Marine Group. In May of 1999, he returned to the firm of Jenner & Block, again as a partner. In 2001, he returned to government service when he was nominated by President Bush and unanimously confirmed by the Senate to serve as General Counsel of the Department of Defense.

A great deal of controversy surrounded the nomination, chiefly connected with policies adopted by the Department of Defense during its conduct of the Global War on Terror. Specifically, opponents of the nomination questioned the role Mr. Haynes played in developing detainee and interrogation policy and whether he sufficiently consulted with uniformed military Judge Advocates General ("JAG") during this process. Several former JAG officers were signatories to a letter opposing the nomination. Supporters of the nomination, however, lauded Mr. Haynes's service during challenging times and the Committee received letters from senior retired military officers in support of the nomination.

Mr. Haynes was first nominated on September 29, 2003 during the 108th Congress. A hearing was held on Mr. Haynes' nomination on November 11 of that year. He was reported out of committee favorably but returned to the President at the end of the Congress. During the 109th Congress, a second hearing on the nomination was held on July 11, 2006. His nomination was returned to the President on August 3, 2006. Mr. Haynes was renominated on September 5, 2006, but the nomination was again returned to the President on September 29, 2006. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

JEROME A. HOLMES, UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

President Bush nominated Jerome Holmes of Oklahoma to be a judge on the United States Court of Appeals for the Tenth Circuit on May 4, 2006. (He had previously been nominated to the District Court, but that nomination was withdrawn in favor of the Circuit Court nomination before the Committee could consider the nomination.)

Judge Holmes graduated from Wake Forest University in 1983 and Georgetown University Law Center in 1988. In 2000, he earned a Masters of Public Administration from Harvard's Kennedy School of Government. Between college and law school, he worked briefly as a Social Services Assistant with the D.C. Department of Corrections. Following law school, he clerked for the Honorable Wayne E. Alley on the United States District Court for the Western District of Oklahoma and the Honorable William J. Holloway on the United States Court of Appeals for the Tenth Circuit. Following his clerkships, Judge Holmes spent three years in private practice as an associate with Steptoe & Johnson. In 1994, he became a federal prosecutor, serving as an Assistant United States Attorney in the Western District of Oklahoma. In 2005 he returned to private practice as a director of the Oklahoma law firm Crowe

& Dunlevy, where he focused on white collar criminal defense and complex civil litigation.

Despite strong bipartisan support in Oklahoma and elsewhere, his nomination was opposed by the Leadership Council on Civil Rights and some Senators, chiefly based on positions Judge Holmes had taken in op-eds and other writings. The first African-American nominated to the Tenth Circuit, Mr. Holmes had written and spoken often on issues concerning race, publicly questioning affirmative action, strongly criticizing leaders such as Jesse Jackson and Al Sharpton, and endorsing school choice. Supporters of the nomination lauded Judge Holmes's commitment to public service and his willingness, as a citizen, to speak out on challenging public issues of the day.

A hearing on the Holmes nomination was held on June 15, 2006 and the nomination was reported out of Committee on July 13, 2006 by a voice vote. The Senate confirmed Judge Holmes by a 67 to 30 vote on July 25, 2006.

SANDRA SEGAL IKUTA, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

President Bush nominated Sandra Segal Ikuta to be a judge on the United States Circuit Court of Appeals for the Ninth Circuit on February 8, 2006.

Judge Ikuta received a B.A. from University of California-Berkeley, Phi Beta Kappa, in 1976, a M.S. from the Columbia University School of Journalism in 1978, and a J.D. from University of California-Los Angeles in 1988. She began her legal career as a law clerk to the Honorable Alex Kozinski, United States Court of Appeals for the Ninth Circuit. Following her clerkship, Judge Ikuta served as a law clerk to United States Supreme Court Justice Sandra Day O'Connor.

In 1990, Judge Ikuta joined the law firm of O'Melveny & Myers as an associate. During the early part of her career, Judge Ikuta specialized in environmental legal issues for litigation purposes, as well as real estate and natural resource transactions. In 1994, Judge Ikuta's focus slightly changed to include environmental compliance and pre-litigation matters, including assisting clients with environmental audits and property contamination issues.

In 1997, Judge Ikuta was promoted to partner at O'Melveny, and she became the Co-Chair of the Environmental Law practice group. In this capacity, she continued to focus on environmental litigation, transactions, and compliance. Judge Ikuta left the law firm in 2004 to become Deputy Secretary and General Counsel for the California Resources Agency.

A hearing on the Ikuta nomination was held on May 2, 2006, and the nomination was reported out of Committee on May 25, 2006 by a voice vote. The Senate confirmed Judge Ikuta by a 81 to 0 vote on June 19, 2006.

KENT A. JORDAN, UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

President Bush nominated Judge Kent A. Jordan of Delaware to be a Judge on the United States Court of Appeals for the Third Circuit on June 28, 2006.

Judge Jordan earned his B.A., with honors, from Brigham Young University in 1981. He received his J.D., cum laude, from the Georgetown University Law Center in 1984. Following law school, he served as a law clerk to the Honorable James L. Latchum, United States District Judge for the District of Delaware, from 1984 to 1985. From 1985 to 1987, he served as an associate at Potter, Anderson & Corroon LLP. In 1987, he entered public service as an Assistant United States Attorney in the United States Attorney's Office for the District of Delaware. He returned to private practice in 1992 when he joined Morris, James, Hitchens & Williams as an associate. Two years later, he was elected to the partnership. In 1998 Judge Jordan left the firm to become Vice-President and General Counsel for the Corporation Service Company in Wilmington, Delaware. He remained in that position until 2002, when he was nominated and confirmed by a voice vote to be United States District Judge for the District of Delaware.

A hearing on Judge Jordan's nomination was held on September 6, 2006. This nomination had the support of both home state Democrats and was not considered controversial. The nomination was favorably reported out of Committee by voice vote on September 26, 2006. The Senate confirmed Judge Jordan by a 91–0 vote on December 8, 2006.

BRETT KAVANAUGH, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

President Bush re-nominated Brett Kavanaugh to be a judge on the United States Court of Appeals for the D.C. Circuit on January 25, 2006. This was the third time he was nominated to that position.

Judge Kavanaugh received his B.A. from Yale College in 1987 and his J.D. from Yale Law School in 1990, where he served as the Notes Editor on the Yale Law Journal. After graduating from law school, he served three prestigious clerkships. First, he clerked for the Honorable Walter K. Stapleton on the United States Court of Appeals for the Third Circuit. Then he clerked for the Honorable Alex Kozinski on the United States Court of Appeals for the Ninth Circuit. Following these two appellate clerkships, Judge Kavanaugh served for one year as an attorney in the Office of the Solicitor General, before beginning a clerkship with Justice Anthony M. Kennedy of the United States Supreme Court.

Following his Supreme Court clerkship, Judge Kavanaugh served in the Office of Independent Counsel under Judge Kenneth Starr. He was responsible for briefs and arguments regarding privilege and other legal matters that arose during investigations conducted by the Office. Judge Kavanaugh was part of the team that prepared the 1998 report to Congress regarding possible grounds for impeachment of the President of the United States. Later, in private practice as a partner with Kirkland & Ellis, Judge Kavanaugh worked primarily on appellate and pre-trial briefs in commercial and constitutional litigation. Beginning in 2001, Judge Kavanaugh served in the White House, first as an Associate White House Counsel, then as Senior Associate White House Counsel, and beginning in 2003 as Staff Secretary.

This nomination drew strong opposition from Members of the Minority who claimed Judge Kavanaugh's experience was excessively partisan and provided insufficient preparation for a seat on the D.C. Circuit. Additionally, some critics raised questions about whether Judge Kavanaugh had any role in authorizing the NSA wiretapping program, though there is no reason to believe he did.

After he was first nominated in 2003, Judge Kavanaugh received a Majority Well Qualified, Minority Qualified rating from the American Bar Association. After his re-nomination in the 109th Congress, Judge Kavanaugh received a Majority Qualified, Minority Well Qualified rating. The curious downgrade in his rating, which was accompanied by some anonymous criticisms of the nominee's fairness and courtroom performance, was highlighted by critics of the nomination as cause for additional opposition and a new round of hearings. Others pointedly criticized the American Bar Association for downgrading a nominee's rating without apparent cause. The Committee held a for-the-record conference call with the ABA on May 8, 2006 but did not invite the organization to formally appear before the Committee.

Judge Kavanaugh was first nominated during the 108th Congress on July 25, 2003. A hearing was held on the nomination on April 27, 2004. At that time, no further action was taken on the nomination. A second hearing on the nomination was held during the 109th Congress, on May 9, 2006. The nominee was reported out of Committee by a 10–8 party line vote on May 11, 2006. On the floor of the Senate, cloture was invoked on the nomination on May 25 by a vote of 67–30, and on May 26, Judge Kavanaugh was confirmed by a vote of 57–36.

PETER KEISLER, UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

On June 29, 2006, President Bush nominated Peter Keisler of Maryland to be a Judge of the United States Court of Appeals for the District of Columbia.

Peter Keisler received a B.A., magna cum laude, from Yale University in 1981 and a J.D. from Yale Law School in 1985. Following law school, he clerked for Judge Robert H. Bork of the United States Court of Appeals for the D.C. Circuit. In 1986, Mr. Keisler joined the Office of the Counsel to President George H.W. Bush as an Assistant Counsel, and in 1987 was promoted to Associate Counsel to the President. In 1988, Mr. Keisler accepted a clerkship with Justice Anthony M. Kennedy of the United States Supreme Court.

Following his Supreme Court clerkship, Mr. Keisler joined the Washington, D.C. office of Sidley & Austin as an associate, becoming a partner in 1993. Mr. Keisler's practice focused primarily on litigation and regulatory matters, specializing in general appellate litigation, telecommunications regulation, and professional liability.

In 2002, Mr. Keisler left private practice to join the United States Department of Justice as Principal Deputy Associate Attorney General. From October 2002 to March 2003, he served as Acting Associate Attorney General, and in April of 2003, he was nominated by President Bush to serve as Assistant Attorney General for

the Civil Division. He was confirmed by the Senate in June of 2003 by a voice vote.

A hearing was held on the Keisler nomination on August 1, 2006. Nevertheless, Mr. Keisler's nomination was not reported to the floor by the Committee during the 109th Congress. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

RAYMOND M. KETHLEDGE, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush nominated Raymond M. Kethledge to be a Judge on the United States Court of Appeals for the Sixth Circuit on June 28, 2006.

Mr. Kethledge received a B.A. from the University of Michigan in 1989 and a J.D., magna cum laude, from the University of Michigan Law School in 1993. After graduating from law school, Mr. Kethledge served as a law clerk to the Honorable Ralph B. Guy, Jr. of the United States Court of Appeals for the Sixth Circuit. Following his clerkship, he worked briefly as an associate with Sidley & Austin before leaving the firm to serve as judiciary counsel to Senator Spencer Abraham. Mr. Kethledge worked for Senator Abraham for two years as counsel until he became a law clerk to Justice Anthony Kennedy of the United States Supreme Court in 1997.

After his Supreme Court clerkship, Mr. Kethledge returned to private practice as an associate with the Michigan law firm of Honigman, Miller, Schwartz & Cohn before becoming a partner at that firm in 2001. Mr. Kethledge focused on commercial litigation for a variety of different clients. In 2001, Mr. Kethledge accepted a position as in-house counsel for the Ford Motor Company, handling product liability matters.

In 2002, Mr. Kethledge left Ford to return to an active court practice and joined Feeney, Kellett, Weinner & Bush as a partner. While at the firm, Mr. Kethledge primarily briefed and argued appellate cases, class actions, and complex motions. In 2003, Mr. Kethledge left Feeney, Kellett, Weinner & Bush to create his own firm, which was initially known as Bush, Seyferth & Kethledge, until becoming Bush, Seyferth, Kethledge & Paige. Mr. Kethledge's current practice focuses on briefing and arguing appeals, class action cases, and commercial litigation at the trial court level.

Mr. Kethledge did not receive a hearing during the 109th Congress because the Michigan Senators declined to return blue slips.

DEBRA A. LIVINGSTON, UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

On June 28, 2006, President Bush nominated Professor Debra Livingston to the United States Court of Appeals for the Second Circuit.

Professor Livingston graduated magna cum laude from Princeton University in 1980 and magna cum laude from Harvard Law School in 1984. Upon graduating from law school, Professor Livingston worked as a law clerk to the Honorable J. Edward Lumbard of the United States Court of Appeals for the Second Circuit. After her clerkship, she joined the firm of Paul, Weiss, Rifkind, Wharton

& Garrison as an associate in 1985. The following year, she became an Assistant U.S. Attorney in the Office of the U.S. Attorney of the Southern District of New York. Professor Livingston returned to Paul, Weiss in 1991 and left the firm the following year to become a law professor. She worked as an assistant professor at the University of Michigan Law School until 1994, when she joined the faculty of Columbia Law School as an associate professor. She became a full professor in 2000 and in 2004 became the Paul J. Kellner Professor of Law.

Neither New York senator returned a blue slip on this nomination, and no hearing was held in the 109th Congress.

DAVID W. MCKEAGUE, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush re-nominated David W. McKeague to be a Judge on the United States Court of Appeals for the Sixth Circuit on February 14, 2005. This was the third time he was nominated to that position.

Judge McKeague received a B.A. from the University of Michigan in 1968 and a J.D. from the University of Michigan Law School in 1971. Upon graduation from law school, he joined the law firm of Foster, Swift, Collins & Smith in Lansing, Michigan. He was later elected a shareholder and director of the firm. Judge McKeague served on the firm's Executive Committee in various offices and was chairman of the firm's Government and Commerce Department. In 1992, Judge McKeague was confirmed to be a judge on the United States District Court for the Western District of Michigan.

Judge McKeague was first nominated to the Court of Appeals during the 107th Congress on November 8, 2001. Although there were no substantive objections to this nomination, a long running dispute between home state Senators and the White House delayed action. He was re-nominated during the 108th Congress on January 7, 2003. A hearing was held June 16, 2004. Judge McKeague was reported favorably out of Committee, but on the floor, the nomination was filibustered when a motion to invoke cloture failed on July 22, 2004. He was re-nominated during the 109th congress, but an additional hearing was not held. Instead, Judge McKeague was placed on the agenda and reported out of Committee on a voice vote on May 26, 2005. The Senate confirmed his nomination by a vote of 96 to 0 on June 9, 2005.

KIMBERLY ANN MOORE, U.S COURT OF APPEALS FOR THE FEDERAL CIRCUIT

President Bush nominated Kimberly Ann Moore to be a Judge on the United States Circuit Court of Appeals for the Federal Circuit on May 18, 2006.

Judge Moore received a B.S. from the Massachusetts Institute of Technology in 1990, a M.S. from the Massachusetts Institute of Technology in 1991, and a J.D. from Georgetown University Law Center in 1994. She began her legal career as an associate at Kirkland & Ellis working on intellectual property matters. In 1995, Judge Moore accepted a clerkship with the Honorable Glenn L. Archer, Jr., Chief Judge of the United States Court of Appeals for the

Federal Circuit. Following her two-year clerkship, Professor Moore entered academia as an Assistant Professor of Law at Chicago-Kent College of Law. From 1998 to 1999, she was Associate Director of the Intellectual Property Law Program at Chicago-Kent. In 1999, Professor Moore joined the faculty at the University of Maryland School of Law before joining the faculty at George Mason University School of Law in 2000. At the time of her nomination, Judge Moore was a Professor of Law at George Mason University School of Law.

As an academic, Judge Moore focused on patent law and patent litigation. She was retained as an expert witness in numerous patent cases in the district courts and as a consultant on many Federal Circuit appeals.

A hearing on the Moore nomination was held on June 28, 2006 and the nomination was reported out of Committee by voice vote on July 27, 2006. The Senate confirmed her nomination by a vote of 92 to 0 on September 5, 2006.

STEPHEN J. MURPHY III, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush nominated Stephen J. Murphy, III, of Michigan, to be a judge on the United States Court of Appeals for the Sixth Circuit on June 28, 2006.

Mr. Murphy received a B.S. degree from Marquette University in 1984 and received his J.D. from St. Louis University in 1987. Upon graduation from law school, Mr. Murphy was accepted into the Department of Justice's prestigious honors program and served as a trial attorney in the Civil Division's Federal Programs Branch until 1990, when he transferred to the Tax Division. In 1992, he joined the U.S Attorney's office for the Eastern District of Michigan, as an Assistant United States Attorney. As a federal prosecutor, he prosecuted almost all categories of federal offenses, with emphasis on criminal tax matters and white collar fraud, including securities, banking, foreign currency trading, high tech computer crimes, and intellectual property.

In 2000, Mr. Murphy left the United States Attorney's office to work as in-house counsel to General Motors, a position which enabled him to handle "white collar" criminal and civil matters involving GM. In 2005, Mr. Murphy became the U.S Attorney for the Eastern District of Michigan.

Blue slips were not returned on the nomination during the 109th Congress, and no hearing was held on his nomination.

WILLIAM MYERS, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

President Bush re-nominated William Myers of Idaho to be a judge on the United States Court of Appeals for the Ninth Circuit on September 5, 2006. This was the third time he was nominated for that position.

Mr. Myers received his B.A. from the College of William & Mary in 1977 and his J.D. from the University of Denver College of Law in 1981. His legal career began in 1981, when he joined the firm of Davis & Cannon as an associate attorney and practiced general civil litigation and appellate advocacy. Four years later, he joined

the staff of Senator Alan Simpson as a legislative counsel, where he served as the principal advisor to the senator on public land issues and Judiciary Committee matters. In 1989, Mr. Myers joined the Department of Justice as the Assistant to the Attorney General. From 1992 to 1993 he served as Deputy Counsel for Programs at the Department of Energy, where he advised on matters pertaining to international energy, government contracting, civilian nuclear programs, and power marketing. Mr. Myers joined the National Cattleman's Beef Association (NCBA) in 1993 and served as both the Director, Federal Lands for NCBA, and Executive Director, Public Lands Council, until 1997, when he joined the law firm of Holland & Hart, LLP. Two years later, he was confirmed by the United States Senate to serve as Solicitor for the United States Department of the Interior. Mr. Myers held that position until the fall of 2003, when he returned to Holland & Hart.

The nomination drew opposition from some environmental and Native American groups that objected to Mr. Myers's perceived ties to mining interests. They also objected to some of the legal positions he argued as Solicitor at the Department of the Interior. In particular, his involvement in a settlement entered into during his tenure at Interior has been the subject of controversy. The Justice Department's Office of Public Integrity conducted an investigation and concluded that there was no evidence Mr. Myers intentionally misled the Committee when he testified that he did not know about the problematic settlement. Nevertheless, the Myers nomination was specifically excluded from the agreement not to filibuster judicial nominees executed by the so-called Gang of 14 in the spring of 2005.

Mr. Myers was first nominated during the 108th Congress, on May 15, 2003. The first nomination hearing for Mr. Myers was held on February 5, 2004. The nomination was reported out of Committee on April 1, 2004 but encountered a successful filibuster on the floor when a motion to invoke cloture failed by a vote of 53 to 44 on July 20, 2004. The nomination was returned to the President on December 8 of that same year. Mr. Myers was re-nominated in the 109th Congress and a second hearing on his nomination was held on March 1, 2005. The nomination was again reported out of Committee on March 17, 2005 and remained on the executive calendar until the nomination was returned on August 3, 2006. The President re-submitted Mr. Myers' nomination on September 5, 2006. It was again returned on the 29th of that month. The nomination was again submitted on November 15, 2006 and returned on December 9 at the end of the Congress.

SUSAN B. NEILSON, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush re-nominated Susan B. Neilson of Michigan to be a judge on the United States Court of Appeals for the Sixth Circuit on February 14, 2005. This was the third time she was nominated for that position.

Judge Neilson earned her A.B. in 1977 from the University of Michigan, where she graduated Phi Beta Kappa. She earned her J.D., cum laude, in 1980 from Wayne State University Law School. Following law school, Judge Neilson worked as an associate and

then a partner with Dickinson, Wright in Detroit. In 1991, Judge Neilson was appointed to serve as a judge on Michigan's Third Judicial Circuit. She was re-elected in 1996 and 2002.

Judge Neilson was first nominated during the 107th Congress, on November 8, 2001. No action was taken on the nomination during that Congress, due to a longstanding dispute between the White House and Michigan Senators. She was re-nominated during the 108th Congress, on January 7, 2003. Although the nomination did receive a hearing on September 8, 2004 and was reported favorably out of Committee, it was returned to the president at the end of the congress following no action on the senate floor. During the 109th Congress, the nomination was reported out of Committee on October 20, 2005. The Senate unanimously confirmed Judge Neilson on October 27, 2005.

PRISCILLA R. OWEN, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

President Bush re-nominated Priscilla Richman Owen of Texas to be a judge on the United States Court of Appeals for the Fifth Circuit on February 14, 2005. This was the fourth time she was nominated to that position.

Judge Owen received her B.A., cum laude, from Baylor University and received her J.D., cum laude, from Baylor Law School in 1977. After law school, Baylor honored Judge Owen as the Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna. She received the highest score on the Texas Bar Examination. Judge Owen began her legal practice with the Houston law firm of Andrews & Kurth L.L.P. first as an associate, later she became a partner. In 1994, Judge Owen was elected to be a Justice on the Supreme Court of Texas, and she was reelected in 2000.

During her tenure on the Texas Supreme Court, Judge Owen served as the liaison to the Supreme Court of Texas' Court-Annexed Mediation Task Force and to statewide committees promoting legal services to the poor and pro bono legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that resulted in millions of dollars per year in additional funds for providers of legal services to the poor. Judge Owen also served as a member of the board of the A.A. White Dispute Resolution Institute.

Judge Owen was first nominated to the Fifth Circuit during the 107th Congress, on May 9, 2001. Opponents of the nomination focused on a series of opinions she wrote as a Justice on the Texas Supreme Court interpreting the Texas Parental Notification Act. That statute required a minor seeking an abortion to first notify one of her parents, or else secure a judicial bypass.

No action was taken on her nomination prior to the August recess of that year and, on August 3, 2001, Judge Owen's nomination was returned to the White House. On September 4, 2001, President Bush re-nominated Judge Owen. A hearing was held on the nomination on July 23, 2002. The Committee rejected a motion to favorably report the nomination to the floor by a vote of 9 to 10 on September 5, 2002. Her nomination was returned to the White House on November 20, 2002.

President Bush re-nominated Judge Owen in the 108th Congress, on January 7, 2003. On March 13, 2003, the Committee held another hearing on Judge Owen's nomination. On March 27, 2003, the Committee favorably reported Judge Owen's nomination by a party-line vote of 10 to 9 and placed it on the Senate calendar. The Senate considered Judge Owen's nomination, but the minority mounted a successful filibuster when a motion to invoke cloture failed on May 1, 2003, by a vote of 52 to 44. On May 8, 2003, a second motion to invoke cloture failed by a vote of 52 to 45. A third motion failed 53 to 43 on July 29, 2003, and a fourth failed on November 14, 2003 by a vote of 53 to 43. On December 8, 2004, Judge Owen's nomination was returned to the White House.

President Bush re-nominated Judge Owen in the 109th Congress. No additional hearing was held on the nomination and the Committee again reported Judge Owen's nomination favorably by a party-line vote of 10 to 8 on April 21, 2005. A motion to invoke cloture on the nomination was presented in the Senate on May 20, 2005. At that time, it was uncertain whether the Senate would invoke cloture on her nomination. The "Gang of 14" agreement announced on May 23, 2005, ensured that cloture would be invoked. The Senate invoked cloture on Judge Owen's nomination by a vote of 81 to 18 on May 24, 2005. The Senate confirmed the nomination by a vote of 55–43 on May 25, 2005.

WILLIAM PRYOR, UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

President Bush re-nominated William Pryor of Alabama to be a judge on the United States Court of Appeals for the Eleventh Circuit on February 14, 2005. This was the third time he was nominated to that position.

Judge Pryor earned his B.A. from Northeast Louisiana University in 1984 and his J.D. from Tulane University School of Law in 1987, where he served as Editor in Chief of the Tulane Law Review. Following law school, he served as a law clerk to the Honorable John Minor Wisdom of the United States Court of Appeals for the Fifth Circuit. He entered private practice in 1988 when he joined the firm of Cabaniss, Johnston, Gardner, Dumas & O'Neal as an associate. While in private practice he also worked as an adjunct professor at the Cumberland School of Law. In 1995, Judge Pryor entered public service as the Deputy Attorney General for Alabama. Two years later, he became the state's Attorney General.

Judge Pryor was first nominated during the 108th Congress on April 9, 2003. Critics of the nomination focused on some comments Judge Pryor had made regarding social policy issues, particularly those related to homosexuality and abortion. They also objected to his reputation as a political conservative. A hearing was held on the nomination on June 11, 2003, and it was reported out of Committee by a vote of 10 to 9 on July 23, 2003. Opponents of the nomination mounted a successful filibuster when two attempts to invoke cloture failed, the first, on July 31, 2003, by a vote of 53 to 44, the second on November 6, 2003, by a vote of 51 to 43. On February 20, 2004, President Bush recess appointed Judge Pryor to serve on the bench. The nomination was returned to the President on December 8, 2004.

Following the re-nomination in the 109th Congress, no additional hearing was held on the nomination. It was favorably reported out of Committee on May 12, 2005. On June 8, 2005, following the so-called "Gang of Fourteen" agreement, cloture was successfully invoked on the nomination by a vote of 67 to 32, and the nomination was confirmed by the Senate one day later by a vote of 53 to 45.

HENRY SAAD, UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

President Bush re-nominated Henry Saad of Michigan to be a judge on the United States Court of Appeals for the Sixth Circuit on February 14, 2005. This was the third time he was nominated to that position.

Judge Saad earned his B.S. and B.A., with distinction, from Wayne State University in 1971. He graduated from Wayne State University Law School magna cum laude in 1974. After law school, he spent 20 years in private practice with one of Michigan's leading firms, Dickinson, Wright PLLC, first as an associate from 1974–1981, then as a partner from 1981–1994. In addition, he was an Adjunct Professor at both the University of Detroit Mercy School of Law and at Wayne State University Law School.

In 1994 Judge Saad was appointed to the Michigan Court of Appeals and was elected to retain his seat in 1996 and again in 2002. In October 1992, he was nominated by President George H.W. Bush to be United States District Judge for the Eastern District of Michigan. No action was taken on his nomination prior to the adjournment of the 102nd Congress later that month.

Judge Saad was first nominated to the Sixth Circuit during the 107th Congress, on November 8, 2001, but no hearing was held because both Michigan senators refused to turn in blue slips. During the 108th Congress, both Michigan senators returned negative blue slips on the nomination. A hearing was held on the nomination during the 108th Congress on July 30, 2003, and his nomination was reported out of Committee by a vote of 10 to 9 on June 17, 2004. Opponents of the nomination mounted a successful filibuster when a motion to invoke cloture on the nomination failed by a vote of 52 to 46 on July 22, 2004. The nomination was returned to the President on December 8, 2004. In the 109th, the Michigan senators again refused to return blue slips. No action was taken on the nomination. A message of withdrawal from the President was received on March 29, 2006.

BOBBY E. SHEPHERD, UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

President Bush nominated Bobby E. Shepherd of Arkansas to the United States Court of Appeals for the Eighth Circuit on May 18, 2006.

Judge Shepherd received his B.A., cum laude, from Ouachita Baptist University in 1973 and his J.D., with high honors, from the University of Arkansas School of Law in 1976. Upon graduating from law school, he embarked on a career as a general practitioner in western Arkansas. He practiced either as a solo practitioner or in small partnerships until 1991, when he was elected Circuit-Chancery Court Judge in Arkansas's 13th Judicial District. Begin-

ning in 1993, he served as a United States Magistrate Judge in the Western District of Arkansas.

A hearing was held on the nomination on June 28, 2006 and it was favorably reported out of Committee by voice vote on July 13, 2006. Judge Shepherd was confirmed by the Senate by voice vote on July 20, 2006.

MILAN D. SMITH, JR., UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

President Bush nominated Milan D. Smith, Jr. of California to be a judge on the United States Court of Appeals for the Ninth Circuit on February 14, 2006.

Judge Smith graduated from Brigham Young University cum laude with a B.A. in 1966 and received his J.D. from the University of Chicago Law School in 1969. Following law school, Judge Smith joined the Los Angeles office of O'Melveny & Myers where he specialized in corporate and real estate law. In 1972, Judge Smith left O'Melveny to form his own firm, and continued to focus on complex transactional matters. In 1988, Judge Smith was appointed to serve as a Commissioner of the California Fair Employment and Housing Commission. He remained on the Commission until 1991.

A hearing on the nomination was held on April 25, 2006 and it was reported out of Committee by a voice vote on May 4, 2006. Judge Smith was confirmed unanimously on May 16, 2006.

N. RANDY SMITH, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

President Bush nominated N. Randy Smith of Idaho to be a judge on the United States Court of Appeals for the Ninth Circuit on December 16, 2005.

Judge Smith received his B.S. from Brigham Young University in 1974 and his J.D. from the same school in 1977 where he wrote for the Idaho Law Review. For the first four years of his legal practice, he worked in house as a corporate attorney for a private company. In 1981, he joined the Idaho law firm of Merrill & Merrill as an associate handling corporate and insurance defense litigation. He later became a partner at the firm and remained there until his election to the Idaho District Court in 1996. In 2002, he became Administrative Judge for his district.

The nomination drew sharp opposition from California's senators. Although they had no substantive objections to the nominee, they argued that the seat to which he had been nominated was traditionally a California seat and that the nomination should have been given to a nominee from their state. One of the senators from California threatened to filibuster the nomination on the Senate floor. Idaho's senators strongly argued to the contrary, maintaining that the seat was properly considered an Idaho seat because that's where its most recent occupant holds his chambers.

A hearing on the nomination was held on March 1, 2006 and it was reported out of Committee by a voice vote on April 4, 2006. The nomination was returned to the President on August 3, 2006. The nomination was re-submitted by the President on September 5, 2006 and was reported out of Committee again on September 21, 2006. The nomination was returned to the President on September

29, 2006. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

MICHAEL B. WALLACE, UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

President Bush nominated Michael B. Wallace of Mississippi to be a judge on the United States Court of Appeals for the Fifth Circuit on February 8, 2006.

Mr. Wallace received his B.A., cum laude, from Harvard University in 1973 and his J.D. from the University of Virginia Law School in 1976 where he was elected Order of the Coif. After law school, he clerked for Justice Harry G. Walker of the Mississippi Supreme Court and for then-Associate Justice William H. Rehnquist on the United States Supreme Court. Following his clerkship, he returned to Mississippi and replaced his father in a small Biloxi legal partnership, Sekul, Hornsby, Wallace & Teel.

From 1980 to 1983, Mr. Wallace worked for then-Congressman Trent Lott, first as a research assistant for the Republican Research Committee and then, following Lott's election as Republican Whip, as counsel in the Whip's office. Before returning to Mississippi, he worked briefly as a legislative consultant for the Administrative Conference of the United States. In 1983, he became an associate with the Mississippi firm of Jones, Mockbee & Bass and became a partner after the firm merged with Phelps Dunbar. He quickly developed a reputation as one of the finest appellate litigators in the nation.

Mr. Wallace received a unanimous "not qualified" rating from the American Bar Association. After reviewing the ABA's rating, Chairman Specter exchanged a series of letters with ABA President Michael Greco and the then-Chairman of the Standing Committee on the Federal Judiciary ("SCFJ"), Stephen Tober. In those letters, Chairman Specter invited the ABA to testify at a hearing concerning Mr. Wallace's nomination and asked the ABA to provide the Senate Judiciary Committee with the reports and materials supporting Wallace's "not qualified" rating. He also raised serious questions about the ABA's ratings procedures, most particularly its reliance on anonymous sources and unattributed quotes. Finally, he asked that the ABA conduct a new investigation of Mr. Wallace and that certain individuals who were perceived to have a personal bias against the nominee be exclude from that review.

After the Chairman's second letter requesting the reports and materials, the ABA retained former Solicitor General Ted Olson to respond to the Chairman's concerns with the ABA rating process. Mr. Olson's letter claimed that the ABA was making "certain modifications" to its policies and procedures to satisfy Chairman Specter's concerns. These modifications included: (1) a strengthening of recusal procedures; (2) clarification of existing policies to give the nominee and the Committee greater context of adverse information; and (3) no publication of unattributed, negative quotations in the ABA's public testimony when a nominee receives a "not qualified" rating. After agreeing to these modifications, the ABA performed a supplemental review of Mr. Wallace's nomination in accordance with the ABA's standard procedure of doing so in the wake of a renomination. The ABA's review, however, was only "supplemental",

it was not the de novo review the Chairman requested. Again, the ABA rated Mr. Wallace "not qualified."

On September 26, 2006, the Committee held a hearing on Mr. Wallace's nomination, which included testimony from members of the ABA's Standing Committee on the Federal Judiciary who participated in the evaluation of Mr. Wallace. The ABA witnesses testified that the "not qualified" rating was based solely on allegations that Mr. Wallace did not have the requisite judicial temperament to be a judge. In both written and delivered testimony, the ABA members asserted that the ABA followed the proper procedures during Mr. Wallace's rating process and that Mr. Wallace was given the opportunity to rebut specific allegations as required by the ABA's own stated policies. However, Mr. Wallace testified that he was not given the opportunity to rebut these allegations because he was not provided with the specific basis for the allegations, and the allegations came from anonymous sources.

During questioning by one senator, the Chair of the SCFJ admitted that the ABA had not made changes to its procedures.

During the hearing, Mr. Wallace also discussed his prior relationship with Stephen Tober, the former Chair of the SCFJ, and the well-known public conflicts he had with Mr. Tober in the past. Despite knowing of these conflicts prior to rating Wallace, the ABA members insisted that Mr. Tober should not have recused himself from the rating process. However, under questioning the current Chair of the SCFJ agreed that there was at least an appearance of impropriety of the kind that would argue for recusal in a judicial proceeding.

In addition, senators questioned the ABA panel about the apparent institutional bias against Mr. Wallace. Senators also questioned the ABA about the rating process and its reliance on anonymous sources to be used against a nominee without giving them an opportunity to rebut the allegations. Further, the hearing revealed significant evidence, which suggests that the ABA rating did not fairly represent Mr. Wallace's civility and temperament in its report. While the ABA's testimony alluded to anonymous comments calling into question Mr. Wallace's civility and demeanor, the outside witnesses, both Democrats and Republicans who know Mr. Wallace personally, all spoke to the contrary at the hearing.

The nomination was returned to the White House on August 3, 2006. President Bush re-nominated him on September 5, 2006. On September 29, 2006, Mr. Wallace's nomination was returned to the White House for the second time. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

COURT OF APPEALS JUDGES CONFIRMED

During the course of the 109th Congress, the following court of appeals judges were confirmed:

Janice R. Brown (DC Circuit)
Michael A. Chagares (3rd Circuit)
Neil M. Gorsuch (10th Circuit)
Richard A. Griffin (6th Circuit)
Thomas B. Griffith (DC Circuit)

Jerome A. Holmes (10th Circuit)
Sandra Segal Ikuta (9th Circuit)
Kent A. Jordan (3rd Circuit)
Brett M. Kavanaugh (DC Circuit)
David W. McKeague (6th Circuit)
Kimberly Ann Moore (Federal Circuit)
Susan Bieke Neilson (6th Circuit)
Priscilla Richman Owen (5th Circuit)
William H. Pryor (11th Circuit)
Bobby E. Shepherd (8th Circuit)
Milan D. Smith, Jr. (9th Circuit)

3. DISTRICT COURTS

During the course of the 109th Congress, the Committee on the Judiciary reported out 48 district court judges, 35 of whom were confirmed by the Senate:

Michael Ryan Barrett (Southern District of Ohio)
Timothy C. Batten, Sr. (Northern District of Georgia)
Francisco Augusto Besosa (District of Puerto Rico)
Joseph Frank Bianco (Eastern District of New York)
Rene Marie Bumb (District of New Jersey)
Timothy Mark Burgess (District of Alaska)
Brian M. Cogan (Eastern District of New York)
Robert J. Conrad (Western District of North Carolina)
Sean F. Cox (Eastern District of Michigan)
Paul A. Crotty (Southern District of New York)
Aida M. Delgado-Colon (District of Puerto Rico)
James C. Dever, III (Eastern District of North Carolina)
Kristi DuBose (Southern District of Alabama)
Gustavo Antonio Gelpi (District of Puerto Rico)
Thomas M. Golden (Eastern District of Pennsylvania)
Andrew J. Builford (Central District of California)
Noel Lawrence Hillman (District of New Jersey)
Thomas E. Johnston (Southern District of West Virginia)
Daniel Porter Jordan, III (Southern District of Mississippi)
Virginia Mary Kendall (Northern District of Illinois)
Stephen G. Larson (Central District of California)
Thomas L. Ludington (Eastern District of Michigan)
Harry Sandlin Mattice, Jr. (Eastern District of Tennessee)
Gray Hampton Miller (Southern District of Texas)
Brian Edward Sandoval (District of Nevada)
Patrick Joseph Schiltz (District of Minnesota)
J. Michael Seabright (District of Hawaii)
Peter G. Sheridan (District of New Jersey)
John Richard Smoak (Northern District of Florida)
Gregory F. Van Tatenhove (Eastern District of Kentucky)
Eric Nicholas Vitaliano (Eastern District of New York)
W. Keith Watkins (Middle District of Alabama)
Frank D. Whitney (Western District of North Carolina)
Susan Davis Wigenton (District of New Jersey)
Jack Zouhary (Northern District of Ohio)

4. OTHER COURTS

LEO MAURY GORDON, UNITED STATES COURT OF INTERNATIONAL TRADE

President Bush nominated Leo M. Gordon of New Jersey to be a judge on the United States Court of International Trade on November 10, 2005.

Judge Gordon received his A.B. from the University of North Carolina-Chapel Hill in 1973 and a J.D. from Emory University School of Law in 1977. Following law school, Judge Gordon served as an Assistant Counsel on the House Judiciary Committee's Subcommittee on Monopolies and Commercial Law. While with the Committee, Judge Gordon focused on antitrust and other commercial legislation. He was the lead counsel in the drafting of the Customs Courts Act of 1980, which established the United States Court of International Trade.

In 1981, Judge Gordon accepted a position with the United States Court of International Trade as an Assistant Clerk. He was later promoted to Clerk of the Court. In these positions, Judge Gordon advised the judges of the court on substantive and procedural issues in litigation pending before the court, as well as on matters pertaining to the operation of the court. Judge Gordon was also charged with the responsibility of developing special procedures for handling complex, multi-party, multi-case litigation and analyzing and implementing changes in federal statutes affecting the jurisprudence of the court. Judge Gordon also worked with the United States Court of International Trade's Advisory Committee on Rules and Practice.

A hearing was held on February 7, 2006, and the nomination was reported out of the Judiciary Committee on February 16, 2006, by a voice vote. Judge Gordon was confirmed by the Senate on March 13, 2006, by a unanimous vote of 82 to 0.

B. NOTABLE EXECUTIVE NOMINATIONS

THOMAS O. BARNETT, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION

President Bush nominated Thomas O. Barnett of Virginia to be Assistant Attorney General for the Antitrust Division at the Department of Justice on September 6, 2005.

Mr. Barnett received his B.A. from Yale University, his Master's degree in economics from the London School of Economics where he was a Fulbright Scholar, and his J.D. from Harvard Law School. Following law school, Mr. Barnett clerked for the Honorable Harrison Winter of the United States Court of Appeals for the Fourth Circuit.

After his clerkship, Mr. Barnett joined the law firm of Covington & Burling, as an associate. In 1997, Mr. Barnett became a partner at Covington. During his time at the firm, Mr. Barnett was Vice Chair of its Antitrust and Consumer Protection Practice Group. He also provided counsel on corporate transactions and licensing arrangements for several Fortune 500 companies. Mr. Barnett left Covington in 2004 to serve as Deputy Assistant Attorney General for civil enforcement for the Antitrust Division.

The Committee held a hearing on Mr. Barnett's nomination on October 6, 2005. The nomination was favorably reported by voice vote on November 3, 2005. The Senate confirmed him, also by voice vote, on February 10, 2006.

STEVEN BRADBURY, ASSISTANT ATTORNEY GENERAL FOR THE OFFICE OF LEGAL COUNSEL

President Bush nominated Steven Bradbury of Maryland to be Assistant Attorney General for the Office of Legal Counsel on June 23, 2005.

Mr. Bradbury graduated from Stanford University in 1980 and the University of Michigan School of Law in 1988. After graduating from law school, he spent one year in the Department of Justice's Office of Legal Counsel before leaving to clerk for the Honorable James Buckley of the United States Court of Appeals for the D.C. Circuit, and later for Justice Thomas on the Supreme Court. Beginning in 1993, Mr. Bradbury spent 11 years working in the Washington D.C. offices of Kirkland & Ellis, ten of which were as partner. In 2004, Mr. Bradbury was appointed to serve as Principal Deputy Assistant Attorney General for Office of Legal Counsel.

Critics of this nomination seized on his role in defending the legal framework for the Terrorist Surveillance Program, although he played no role in its development. He is credited as having authored the Department of Justice's white paper that set forth the legal basis for the program after the program came to light. Some Members of the Minority requested that no action be taken on the nomination during the pendency of an investigation by the Justice Department's Office of Professional Responsibility into whether or not lawyers who worked on the terrorism surveillance program acted within their professional and ethical responsibilities when giving legal advice. On May 10, 2006, investigators at OPR were denied security clearance to investigate the matter further. Later, in July, 2006, Attorney General Gonzalez testified to the Committee that the investigation was closed on direct authority of President Bush. Shortly after Gonzalez's testimony, the minority senators on the Committee wrote a letter to President Bush requesting that the investigation be resumed and expressed unwillingness to allow the Bradbury nomination to move forward.

The Committee held a hearing on the nomination on October 6, 2005, and it was reported out of Committee by voice vote on November 3, 2005. No floor action was taken on the nomination, and it was returned to the President on December 22, 2005. On January 25, 2006, Mr. Bradbury was re-nominated and the nomination was again placed on the agenda for Committee action on March 29, 2006. Action on the nomination was deferred until July 27, 2006, when it was voted out of Committee by a voice vote. On September 29, 2006, the nomination was returned to the President. The nomination was resubmitted on November 15, 2006 and returned on December 9 at the end of the Congress.

JOHN F. CLARK, DIRECTOR, UNITED STATES MARSHALS SERVICE, DOJ

President Bush nominated John F. Clark of Virginia to be Director for the United States Marshals Service on October 21, 2005.

Mr. Clark received his B.S. from Syracuse University in 1997. He began his law enforcement career as a patrol agent with the United States Border Patrol before joining the United States Capitol Police in 1981. In 1983, Mr. Clark joined the United States Marshals Service as a Deputy United States Marshal in the Northern District of California. In 1986, Mr. Clark became an Inspector in the Fugitive Squad of the United States Marshals Service in the Eastern District of Virginia. From 1990 to 1997, Mr. Clark held various positions at the United States Marshals Service Headquarters, including Supervisory Inspector (Office of Internal Affairs) and Chief Inspector (International Fugitive Operations and Office of Internal Affairs).

In 1997, Mr. Clark returned to the Eastern District of Virginia as the Chief Deputy United States Marshal. From 1999 until 2002, Mr. Clark was the Acting United States Marshal for the Eastern District of Virginia before being appointed by President Bush as United States Marshal for the Eastern District of Virginia in 2002. Since August of 2005, Mr. Clark had been the Acting Director of the United States Marshals Service.

On February 15, 2006, the Senate Judiciary Committee held a hearing on Mr. Clark's nomination. On March 16, 2006, the Committee reported Mr. Clark's nomination favorably by voice vote, and the Senate confirmed his nomination later that same day by voice vote.

PAUL D. CLEMENT, SOLICITOR GENERAL

President Bush nominated Mr. Paul Clement of Virginia to be Solicitor General of the United States on March 14, 2005. Mr. Clement graduated summa cum laude from Georgetown University, received a Masters in Philosophy with distinction from Cambridge, and received his law degree, magna cum laude, from Harvard Law School. After law school, he clerked for the United States Court of Appeals for the D.C. Circuit and then clerked for Justice Antonin Scalia on the United States Supreme Court.

Following his clerkships, Mr. Clement went into private practice as an associate at Kirkland & Ellis. Subsequently, Mr. Clement served for two years as Chief Counsel for the United States Senate Committee on the Judiciary's Subcommittee on the Constitution, Federalism and Property Rights. While serving on the Subcommittee, Mr. Clement worked with then-Senator John Ashcroft to enact the Digital Millennium Copyright Act. After working for the Senate Judiciary Committee, Mr. Clement returned to private practice, eventually becoming a partner and the head of King & Spalding's appellate practice group.

Since 2001, Mr. Clement has worked for the United States Department of Justice in the Office of Solicitor General. He first served as Principal Deputy and then became Acting Solicitor General in 2004 when Solicitor General Theodore Olson retired. In his capacity as Deputy and Acting Solicitor General, Mr. Clement represented the United States government in a wide variety of appellate matters, including arguing before the Supreme Court 26 times. Some of his most notable cases include *McConnell* v. *Federal Election Commission* (defending the constitutionality of the Bipartisan Campaign Reform Act), *Tennessee* v. *Lane* (defending the constitu-

tionality of Title II of the Americans with Disabilities Act), and *Hamdi* v. *Rumsefeld* (representing the federal government in a challenge to the President's authority to detain citizens as enemy combatants). Mr. Clement also has taught at Georgetown University Law Center as an adjunct professor since 1998.

A hearing on the Clement nomination was held on April 27, 2005, and it was reported favorably by voice vote on May 26, 2005. The Senate confirmed Mr. Clement, also by voice vote, on June 8, 2005.

CAROL E. DINKINS, CHAIRMAN OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

President Bush nominated Carol E. Dinkins of Texas to be the first Chairman of the Privacy and Civil Liberties Oversight Board on September 28, 2005.

The creation of the Privacy and Civil Liberties Oversight Board was a recommendation of the 9/11 Commission and was passed by Congress and signed into law by President Bush as part of the National Intelligence Reform Act. The Board advises the President and the heads of executive departments and agencies and reports to Congress to ensure that privacy and civil liberties are appropriately considered in the development and implementation of laws, regulations, and executive branch policies related to efforts to protect the United States against terrorism.

This legislation mandated the board be located within the Executive Office of the President. The board consists of a chair, vice chair, and three additional members, all appointed by, and serving at the pleasure of the President. Nominees for the chair and vice chair positions are subject to Senate approval.

Ms. Dinkins received her B.S. from the University of Texas-Austin in 1968 and her J.D. from the University of Houston in 1971. Following her graduation from law school, Ms. Dinkins served as Principal Associate of the Texas Law Institute of Coastal & Marine Resources. Ms. Dinkins also taught research and writing courses as an Adjunct Assistant Professor of Law at University of Houston School of Law.

From 1973 until 1981, Ms. Dinkins was an attorney in private practice with Vinson & Elkins. She represented clients in obtaining governmental authorizations of projects and counseled them on compliance activities. In 1981, Ms. Dinkins returned to public service as Assistant Attorney General of the Environment and Natural Resources Division at the Department of Justice. In this position, Ms. Dinkins supervised the government's litigation in federal environmental, natural resources, and public land matters.

In 1984, Ms. Dinkins was appointed Deputy Attorney General. Ms. Dinkins returned to private practice in 1985 as a partner at Vinson & Elkins where she is currently co-section head of the Administrative/Environmental Law Practice. She assists clients with compliance matters, including counseling, internal investigations, and negotiation of judicial and administrative settlements.

A hearing on the Dinkins nomination was held on November 8, 2005 and it was reported out of Committee on a voice vote on February 16, 2006. The Senate confirmed the nomination by voice vote on February 17, 2006.

ALICE S. FISHER, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

President Bush nominated Alice S. Fisher of Virginia to be the Assistant Attorney General of the Criminal Division of the Department of Justice on September 20, 2005.

Ms. Fisher received her B.A. from Vanderbilt University in 1989 and her J.D. from the Catholic University of America's Columbus School of Law in 1992.After graduating from law school, Ms. Fisher accepted a position as an associate at the law firm of Sullivan & Cromwell in Washington, D.C.

In 1995 and 1996, Ms. Fisher served as Deputy Special Counsel to the United States Senate Committee Investigating Whitewater Development Corporation and Related Matters. In that role, she assisted with the Senate's investigation and helped draft the final report. In 1996, Ms. Fisher accepted a position as an associate with the D.C. firm of Latham & Watkins. In 2001, she became a partner.

From 2001 until 2003, Ms. Fisher served as Deputy Assistant Attorney General in the Criminal Division. In that capacity, she supervised the Division's Counter-Terrorism Section, Fraud Section, Appellate Section, Capital Case Unit, and Alien Smuggling Task Force. In 2003, she returned to Latham & Watkins as a partner.

A hearing on the Fisher nomination was held on May 12, 2005. At the June 16, 2005 meeting of the Committee, a Democratic senator raised concerns about Ms. Fisher's nomination. He asserted that a partially redacted email memorandum written by an unnamed FBI agent indicated that Ms. Fisher was present during meetings where concerns were raised regarding the interrogation techniques at Guantanamo. This senator asked the Committee to request additional information from the Department of Justice. The Committee favorably reported Ms. Fisher's nomination by voice vote at the business meeting, but several Democratic senators passed on the vote. On August 31, 2005, President Bush recess appointed Ms. Fisher as Assistant Attorney General.

On July 26, 2006, a Democratic senator was afforded the opportunity to meet with the unnamed FBI agent who wrote the email memorandum. The agent confirmed Ms. Fisher's statements that she only attended one meeting and that the meeting concerned cases and prosecutions, not allegations of abuse at Guantanamo. This senator then requested to meet with other officials mentioned in the memorandum. These requests were not met prior to Ms. Fisher's nomination being brought to the floor for a vote. The Senate confirmed Ms. Fisher on September 19, 2006 by a vote of 61 to 35.

SHAREE M. FREEMAN, DIRECTOR, COMMUNITY RELATIONS SERVICES, DOJ

President Bush nominated Sharee M. Freeman of Virginia to be the Director of Community Relations Services (CRS), United States Department of Justice on December 20, 2005.

Ms. Freeman received her B.A. from St. Lawrence University and her J.D. from Georgetown University Law Center. She began her legal career as a law clerk with Judge Norma Holloway Johnson of the United States District Court for the District of Columbia.

In 1982, Ms. Freeman accepted a position to serve as an Assistant District Attorney with the Philadelphia District Attorney's Office. In 1984, Ms. Freeman became Acting Assistant Solicitor and Attorney/Advisor with the United States Department of Interior.

In 1997, Ms. Freeman accepted a counsel position with the House Judiciary Committee and Congressman Henry Hyde. She also served as counsel to Congressman Hyde on the House International Relations Committee. In 2001, President Bush appointed Ms. Freeman to be the Director of CRS for a term of four years, and the Senate unanimously confirmed her. Following the expiration of her four year term as director, Ms. Freeman served as Acting Director of CRS.

A hearing on Ms. Freeman's nomination was held on March 14, 2006 and the nomination was reported out of Committee by voice vote on March 30, 2006. The Senate confirmed Ms. Freeman by voice vote on March 31, 2006.

ALBERTO GONZALES, UNITED STATES ATTORNEY GENERAL

President Bush nominated Alberto R. Gonzales of Texas to be United States Attorney General on January 4, 2005. (He had previously been nominated late in the 108th Congress, on November 16, 2004, but no action was taken on the nomination during that Congress.)

Attorney General Gonzales served in the United States Air Force from 1973 to 1975 and attended the Air Force Academy from 1975 to 1977. After two years at the Academy, Attorney General Gonzales transferred to Rice University, from which he graduated in 1979. He later earned his J.D. from Harvard Law School in 1982. Upon graduation from law school, Attorney General Gonzales entered private practice with the Houston law firm Vinson & Elkins as an Associate and eventually was elevated to Partner in the firm. In 1994, Attorney General Gonzales was named General Counsel to then-Texas Governor George W. Bush, until he was named Secretary of State for Texas in 1997. In 1999, he was appointed to serve on the Texas Supreme Court. In 2001, he stepped down from the court to serve as White House Counsel.

The Gonzales nomination faced substantial opposition from Members of the Minority who questioned him about his views on various legal conclusions incident to the Global War on Terror. In particular, critics of the nomination focused on extraordinary interrogation techniques and the applicability of the Geneva Conventions. Nominee Gonzales was emphatic in his answer to questions about torture during his hearing. When asked by a Senator whether United States personnel can legally engage in torture under any circumstances, Attorney General Gonzales answered: "Absolutely no. Our policy is we do not engage in torture." Some editorials and opponents in the Senate cited a repudiated Justice Department memorandum defining torture narrowly, so as to limit it to severe or serious physical condition or injury. The memorandum was addressed to then-White House Counsel Gonzales as evidence of his approval of such techniques. However, it was pointed out in the hearings and Senate debate that Gonzales was not the author of the offending language, and he had rejected this narrow view.

At his hearing, Attorney General Gonzales also reasserted his commitment to the Geneva Conventions. He told the Committee: "I consider the Geneva Conventions neither quaint nor obsolete." And he stressed that "[t]he President has repeatedly condemned torture and made clear that the United States will not condone torture."

Another issue that was presented during the hearing and debate on the Gonzales nomination was his stance with respect to another portion of the controversial DOJ memorandum that involved an expansive view of Executive authority. Attorney General Gonzales testified in both his testimony before the Committee and in written responses that the expansive positions on Executive authority had been rejected, "including that section regarding the Commander-in-Chief's authority to ignore the criminal statutes."

Some opponents of the nomination also asserted that Gonzales was unresponsive and that the Committee had not been thorough enough in its oversight of the Department of Justice's top position. But at his hearing, Attorney General Gonzales testified for nearly six hours, answering multiple rounds of questions. Gonzales' answers to the Committee's written questions, contained in 221 single-spaced pages, provided nearly 450 often detailed responses on issues ranging from the war on terrorism to intellectual property.

The hearing on this nomination was held on January 6, 2005. The nomination was favorably reported out of Committee by a vote of 10 to 8 on January 26, 2005, and the Senate confirmed the Attorney General on February 2, 2005 by a vote of 60 to 36. According to press accounts, Attorney General Gonzales was confirmed by the full Senate with fewer minority-party votes than any nominee for attorney general in 80 years.[10]

EMILIO T. GONZALEZ, DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES

President Bush nominated Emilio T. González of Florida to be Director of the Bureau of Citizenship and Immigration Services on September 8, 2005.

Dr. González earned his B.A. from the University of South Florida in 1977. He also earned an M.A. from Tulane University in 1986, an M.A. from the United States Naval War College in 1994, and a Ph.D. from the University of Miami in 1997.

Dr. González had a distinguished military career that spanned nearly three decades. During this time, he served at the United States Embassies in El Salvador and Mexico, taught at the United States Military Academy at West Point, and headed the Office of Special Assistants for the Commander-in-Chief of the United States Southern Command. In 2003, Dr. González received an honorable discharge. He was awarded numerous medals while serving in the Army, including the Superior Service Medal, the Defense Meritorious Service Medal, and the Joint Service Commendation Medal. Following his military service, Dr. González served as Senior Managing Director of Tew Cardenas' Global and Government Affairs practice in Miami and Washington, D.C., focusing on international strategic planning and government affairs.

[10] Senate Confirms Gonzales, 60 to 36, Washington Post, 2/4/2005, at A01.

A nomination hearing was held for Dr. González on October 6, 2005. Dr. González was reported out of Committee on November 11, 2005, by a voice vote and was confirmed by a voice vote on December 21, 2005.

WAN J. KIM, ASSISTANT ATTORNEY GENERAL, CIVIL RIGHTS DIVISION

President Bush nominated Mr. Wan J. Kim of Maryland to be an Assistant Attorney General of the Civil Rights Division of the Department of Justice on June 16, 2005.

Born in Seoul, Republic of Korea, Mr. Kim immigrated to the United States at nearly five years old. He entered the United States Army in 1985 and served as a Second Lieutenant from 1989 until 2000, when he was honorably discharged.

Mr. Kim received his B.A. with general and departmental honors from Johns Hopkins University in 1990. He attended University of Chicago Law School, from which he also graduated with honors in 1993. Mr. Kim then clerked for Judge James L. Buckley of the United States Court of Appeals for the D.C. Circuit. Following his clerkship, Mr. Kim joined the Department of Justice. He was hired through the Attorney General's Honors program and became a trial attorney in the Criminal Division's Terrorism and Violent Crime Section. In that post, Mr. Kim worked on a number of high profile prosecutions, including the prosecution of the perpetrators of the Oklahoma City bombing.

Mr. Kim spent two years in the private sector, as a litigation associate at Kellogg, Huber, Hansen, Todd & Evans in Washington, D.C. He then returned to the Department of Justice as an Assistant United States Attorney in the United States Attorney's Office for the District of Columbia. While employed as an Assistant United States Attorney, Mr. Kim was detailed to the Senate Judiciary Committee for one year, where he worked on the drafting of the Hatch-Leahy PROTECT Act. In 2003, he joined the Civil Rights Division as a Deputy Assistant Attorney General; there he supervised the Criminal, Educational Opportunities, and Housing and Civil Enforcement Sections.

A hearing was held on the Kim nomination on October 6, 2006, and it was reported out of Committee by a voice vote on November 3, 2005. The Senate confirmed Mr. Kim by voice vote on November 4, 2005.

PAUL J. MC NULTY, DEPUTY ATTORNEY GENERAL

President Bush nominated Paul J. McNulty of Virginia to be Deputy Attorney General on November 9, 2005.

Mr. McNulty received his B.A. from Grove City College in 1980 and his J.D. from Capital University Law School in 1983. Upon graduating law school, he served as a Democratic staffer, serving as a counsel to the House Committee on Standards of Official Conduct. In 1985, he became the Director of Government Affairs for the Legal Services Corporation, a position he held for two years before returning to government service in 1987, when he became the minority counsel to the House Judiciary Committee's Subcommittee on Crime. In 1990, he joined the Justice Department as Director of Policy and Communications, a post he held for over two years. After a two-year stint with the Washington law firm of Shaw, Pitt-

man, Potts and Trowbridge, Mr. McNulty returned to the House Subcommittee on Crime, this time as Chief Counsel. He also served as an adjunct professor at Grove City College between 1994 and 2000.

In 1999, Mr. McNulty became Chief Counsel to then-House Majority Leader Dick Armey and served in that capacity until 2001. After the 2000 election, Mr. McNulty headed President Bush's transition effort for the Justice Department and then served as Principal Associate Deputy Attorney General before being appointed United States Attorney for the Eastern District of Virginia in September of 2001. At the time of his nomination, he had been serving as Acting Deputy Attorney General since November 1, 2005, and had continued to serve as United States Attorney for the Eastern District of Virginia.

At his hearing, Senator Schumer stated for the record his strong support of the nomination.

A hearing on the McNulty nomination was held on February 2, 2006. He was reported out of committee by voice vote on February 16, 2006, and confirmed by the Senate by voice vote on March 16, 2006.

JULIE L. MYERS, ASSISTANT SECRETARY OF HOMELAND SECURITY

President Bush nominated Julie L. Myers of Kansas to be an Assistant Secretary of Homeland Security on October 7, 2005.

Ms. Myers received her B.A. from Baylor University in 1991. She then attended Cornell University Law School, from which she graduated in 1994. Ms. Myers then served as a Law Clerk to the Honorable C. Arlen Beam of the United States Court of Appeals for the Eighth Circuit. Following her clerkship, she joined the law firm of Mayer, Brown & Platt in Chicago, Illinois, where she was an associate in the firm's commercial litigation group for approximately two years.

From 1998 until 1999, Ms. Myers served as an Associate Independent Counsel in the Office of the Independent Counsel, Kenneth W. Starr. In that role, Ms. Myers's principal work included drafting briefs and other documents, questioning witnesses in the grand jury, and writing memoranda analyzing legal questions. In 1999, Ms. Myers joined the Office of the United States Attorney for the Eastern District of New York as an Assistant United States Attorney where her work ranged from simple drug and other import fraud cases to more complex smuggling investigations.

In 2001, Ms. Myers became a Deputy Assistant Secretary (Money Laundering and Financial Crimes) at the Department of the Treasury. In this capacity, Ms. Myers directly supervised two sections of the Office of Enforcement: the Counternarcotics Section and the International Money Laundering Section.

In 2002, Ms. Myers became Chief of Staff for the Criminal Division at the Department of Justice. In 2003, the President nominated and the Senate confirmed Ms. Myers to be the Assistant Secretary of Commerce for Export Enforcement at the Department of Commerce. In this position, Ms. Myers directly supervised nine field offices and five foreign attaches. She was responsible for a budget of $25 million and supervised approximately 170 employees. Then, in 2004, Ms. Myers accepted the position of Special Assistant

to the President for Presidential Personnel in the Executive Office of the President.

Some critics of the nomination expressed concern that Ms. Myers's professional experience did not satisfy the statutory requirement that a nominee for this position have a minimum of five years professional experience in law enforcement and a minimum of five years management experience. However, supporters of her nomination emphasized her law enforcement and management experience in her previous positions, including as an Associate in the Office of Independent Counsel, Assistant United States Attorney, Deputy Assistant Secretary for Money Laundering and Financial Crimes at the Department of Treasury, Chief of Staff for the Criminal Division at the Department of Justice, Assistant Secretary of Commerce for Export Enforcement at the Department of Commerce, and as Special Assistant to the President for Presidential Personnel.

The Senate first referred Ms. Myers' nomination to the Senate Homeland Security and Governmental Affairs Committee. That committee held a hearing on her nomination, and then the nomination was referred sequentially to the Senate Judiciary Committee for no more than thirty days by unanimous consent agreement. The Committee held a hearing on the Myers nomination on October 18, 2005, and then the nomination was discharged from Committee by unanimous consent. The Senate did not act on the nomination prior to recessing for the holidays. On January 4, 2006, President Bush recess appointed Ms. Myers as an Assistant Secretary of Homeland Security. On February 10, 2006, President Bush resubmitted her nomination to the Committee on Homeland Security and Governmental Affairs. The Senate did not take any further action on her nomination during the 109th Congress.

JAMES O'GARA, DEPUTY DIRECTOR FOR SUPPLY REDUCTION AT THE OFFICE OF NATIONAL DRUG CONTROL POLICY

President Bush nominated James O'Gara to be the Deputy Director for Supply Reduction at the Office of National Drug Control Policy (ONDCP) on July 28, 2005.

Mr. O'Gara received his Bachelor of Arts degree from St. John's College in 1988, and began working as a Fellow at the Claremont Institute. In 1990, he began his service as the Coordinator for South American Affairs at ONDCP from 1990 to 1993, where he monitored development of President H.W. Bush's Andean Strategy, and served as Executive Secretary to National Security Council's Policy Coordinating Committee on Overseas Counter-narcotics. In 1993, Mr. O'Gara then joined the Drug Enforcement Agency (EPA) as a Foreign Policy Advisor. In 1995, he worked as a Policy Analyst on the Senate Judiciary Committee for then-Chairman Orrin Hatch, where he advised the Chairman on federal narcotics policy, legislation on crack penalties, military interdiction operations, electronic surveillance, and drug treatment and prevention. In 1996, he left the Committee to become the Director of Research for the New Citizenship Project. Shortly thereafter he began working for the Philanthropy Roundtable. In 2001, he began his service as Special Assistant to the Director at ONDCP.

The O'Gara nomination faced opposition from some law enforcement and narcotics officers who questioned his willingness to ensure that ONDCP fully fund and support the High Intensity Drug Trafficking Areas (HIDTA) program. Several state and local law enforcement groups expressed concerns that the nominee had disregarded their input in his position as Special Assistant to the Director at ONDCP.

A hearing on the O'Gara nomination was held on October 18, 2005, and no further action was taken in Committee on the nomination until it was returned to the President on August 3, 2006. The nomination was subsequently re-submitted to the Senate on September 5, 2006.

ALAN C. RAUL, VICE CHAIRMAN OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

President Bush nominated, Alan C. Raul to be the first Vice Chairman of the Privacy and Civil Liberties Oversight Board on September 28, 2005.

The creation of the Privacy and Civil Liberties Oversight Board was a recommendation of the 9/11 Commission and was passed by Congress and signed into law by President Bush as part of the National Intelligence Reform Act. The Board advises the President and the heads of executive departments and agencies, and reports to Congress to ensure that privacy and civil liberties are appropriately considered in the development and implementation of laws, regulations, and executive branch policies related to efforts to protect the United States against terrorism.

This legislation mandated the board be located within the Executive Office of the President. The board consists of a chair, vice chair, and three additional members, all appointed by, and serving at the pleasure of, the President. Nominees for the chair and vice chair positions are subject to Senate approval.

Mr. Raul received his A.B. from Harvard College in 1975, magna cum laude, his M.P.A. from Harvard University's Kennedy School of Government in 1977, and his J.D. from Yale Law School in 1980.

After graduating from Yale Law School, Mr. Raul served as a law clerk to the Honorable Malcolm R. Wilkey on the United States Court of Appeals for the D.C. Circuit. Following his clerkship, Mr. Raul joined the law firm of Debevoise & Plimpton.

In 1986, Mr. Raul left private practice to serve as Associate Counsel to the President in the Executive Office of the President. In 1988, Mr. Raul became the General Counsel of the Office of Management & Budget. One year later, he was nominated by President George H.W. Bush and confirmed by the Senate as General Counsel to the United States Department of Agriculture. Mr. Raul returned to private practice in 1993, joining the law firm of Beveridge & Diamond PC, where he served as the Managing Director until 1997. In 1997, Mr. Raul moved to the law firm of Sidley & Austin, where he is a partner and coordinates Sidley & Austin's Information Law and Privacy Practice.

A hearing on the Raul nomination was held on November 8, 2005, and it was reported out of Committee by a voice vote on February 16, 2006. The Senate confirmed the nomination on February 17, 2006 by voice vote.

REGINA B. SCHOFIELD, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS

President Bush nominated Regina B. Schofield of Virginia to be the Assistant Attorney General for the Office of Justice Programs on April 4, 2005.

Ms. Schofield received her B.A. from Mississippi College in 1982 and her M.B.A from Jackson State University in 1990. Following graduate school, she worked as a sales representative for Philip Morris USA. From 1991 to 1993, she served in the Department of Education first as a Confidential Assistant and then as Deputy Director for the Office of White House Liaison. She left the DOE in 1993 to become a Manager on environmental issues for the International Council of Shopping Centers. In 1991, Ms. Schofield moved to the United States Postal Service where she worked as a manager on governmental relations.

From 2003 until her nomination, she served as Director of Intergovernmental Affairs and White House Liaison at the Department of Health and Human Services. As Director of Intergovernmental Relations, Ms. Schofield was instrumental in advancing intergovernmental relations with over 562 federally recognized Tribal Governments. She developed the Department's first comprehensive tribal consultation policy and has worked to establish formal mechanisms to create an "open door" for tribes regarding the Department's policy and budget process. She has also worked to streamline the grants process thereby increasing public awareness of government-funded programs and services.

A hearing was held on Ms. Schofield's nomination on May 12, 2005. Following her hearing, questions were raised regarding her lack of legal experience. Also, she was questioned regarding funding for the Office of Justice Programs and her plans in this area as Assistant Attorney General. She was voted out of Committee on May 26, 2005, by a voice vote. She was confirmed on June 8, 2005, also by a voice vote.

KENNETH L. WAINSTEIN, ASSISTANT ATTORNEY GENERAL FOR NATIONAL SECURITY

President Bush nominated Kenneth L. Wainstein of Virginia to be the first Assistant Attorney General for National Security on March 13, 2006.

This is a new position, created by the USA PATRIOT Improvement and Reauthorization Act of 2005. The Assistant Attorney General for National Security oversees the new National Security Division of the Justice Department. That Division consolidates the Justice Department's national security, counterterrorism, counterintelligence, and foreign intelligence surveillance operations under a single authority.

Mr. Wainstein earned his B.A. from the University of Virginia in 1984 and his J.D. from the University of California, Berkeley (Boalt Hall) in 1988. Following law school, he clerked for United States District Court Judge Thomas Penfield Jackson before beginning a long and distinguished career as a prosecutor. In 1989, he joined the United States Attorney's Office for the Southern District of New York. After three years with that office, he became an As-

sistant United States Attorney in the District of Columbia. He became Deputy Chief of the office's Homicide Section in 1998, then Deputy Chief of its Superior Court Division in 1999, and Principal Assistant United States Attorney in 2000. Attorney General John Ashcroft named Mr. Wainstein Interim United States Attorney for the District of Columbia in 2001. Following the nomination and confirmation of a permanent United States Attorney, Mr. Wainstein became the Director of the Executive Office for United States Attorneys. From 2002 to 2004, he worked in the front office of the Federal Bureau of Investigation, first as General Counsel and then as Chief of Staff. Since 2004, he has been the United States Attorney for the District of Columbia.

A nomination hearing was held for Mr. Wainstein on May 2, 2006. He was reported out of the Judiciary Committee by voice vote on June 15, 2006, and was then referred to the Intelligence Committee, which reported the nomination out favorably on June 22. He was confirmed by the Senate by voice vote on September 21, 2006.

SUE ELLEN WOOLDRIDGE, ASSISTANT ATTORNEY GENERAL, ENVIRONMENT AND NATURAL RESOURCES DIVISION

President Bush nominated Ms. Sue Ellen Wooldridge of Virginia to be the Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice on June 20, 2005.

Ms. Wooldridge earned her undergraduate degree from University of California Davis in 1983 and her law degree from Harvard School of Law in 1987. She went on to work for seven years as an associate for the law firm Diepenbrock, Wulff, Plant & Hanegan in Sacramento, California. At the firm, Ms. Wooldridge handled commercial, insurance, and employment litigation matters in both the state and federal courts.

In 1994, Ms. Wooldridge served as a Special Assistant Attorney General for the California Department of Justice. Ms. Wooldridge acted as a legal and policy advisor to the attorney general with duties including litigation management, governmental relations, and legislation advocacy. In 1999, Ms. Wooldridge left the office to become a partner with the civil litigation firm, Riegels, Campos & Kenyond. She next served as General Counsel to the California Fair Political Practices Commission for two years, and her responsibilities included interpreting, implementing, and defending the state's campaign finance and disclosure laws.

In 2001, Ms. Wooldridge left California to become the Deputy Chief of Staff and Counselor to the Secretary of the United States Department of Interior. In this capacity, Ms. Wooldridge provided legal and policy direction to the Department. In 2004, President Bush appointed and the Senate confirmed Ms. Wooldridge as Solicitor of the Department of Interior. As the Department's chief legal officer, Ms. Wooldridge is responsible for managing nearly 400 lawyers and eighteen offices nationwide and provides counsel on a variety of substantive legal issues.

A hearing on the Wooldridge nomination was held on November 3, 2005, and it was reported out of Committee by voice vote on No-

vember 3, 2005. The Senate confirmed the nomination by voice vote on November 10, 2005.

IV. APPENDICES REGARDING NOMINATIONS

A. MEMORANDUM OF UNDERSTANDING ON JUDICIAL NOMINATIONS—GANG OF FOURTEEN AGREEMENT

We respect the diligent, conscientious efforts, to date, rendered to the Senate by Majority Leader Frist and Democratic Leader Reid. This memorandum confirms an understanding among the signatories, based upon mutual trust and confidence, related to pending and future judicial nominations in the 109th Congress.

This memorandum is in two parts. Part I relates to the currently pending judicial nominees; Part II relates to subsequent individual nominations to be made by the President and to be acted upon by the Senate's Judiciary Committee.

We have agreed to the following:

Part I: *Commitments on Pending Judicial Nominations*

A. *Votes for Certain Nominees.* We will vote to invoke cloture on the following judicial nominees: Janice Rogers Brown (D.C. Circuit), William Pryor (11th Circuit), and Priscilla Owen (5th Circuit).

B. *Status of Other Nominees.* Signatories make no commitment to vote for or against cloture on the following judicial nominees: William Myers (9th Circuit) and Henry Saad (6th Circuit).

Part II: *Commitments for Future Nominations*

A. *Future Nominations.* Signatories will exercise their responsibilities under the Advice and Consent Clause of the United States Constitution in good faith. Nominees should only be filibustered under extraordinary circumstances, and each signatory must use his or her own discretion and judgment in determining whether rush circumstances exist.

B. *Rules Changes.* In light of the spirit and continuing commitments made in this agreement, we commit to oppose the rules changes in the 109th Congress, which we understand to be any amendment to or interpretation of the Rules of the Senate that would force a vote on a judicial nomination by means other than unanimous consent or Rule XXII.

We believe that, under Article II, Section 2, of the United States Constitution, the word "Advice" speaks to consultation between the Senate and the President with regard to the use of the President's power to make nominations. We encourage the Executive branch of government to consult with members of the Senate, both Democratic and Republican, prior to submitting a judicial nomination to the Senate for consideration.

Such a return to the early practice of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate.

We firmly believe this agreement is consistent with the traditions of the United States Senate that we as Senators seek to uphold.

E. BENJAMIN NELSON.
MIKE DEWINE.
JOE LIEBERMAN.
SUSAN COLLINS.
MARK PRYOR.
LINDSAY GRAHAM.

LINCOLN CHAFEE.
JOHN MCCAIN.
JOHN WARNER.
ROBERT C. BYRD.
MARY LANDRIEU.
OLYMPIA SNOWE.
KEN SALAZAR.
DANIEL INOUYE.

B. LETTER: CHAIRMAN SPECTER TO AMERICAN BAR ASSOCIATION (MICHAEL S. GRECO AND STEPHEN L. TOBER)

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 22, 2006.

MICHAEL S. GRECO,
President, American Bar Association.

STEPHEN L. TOBER,
Chairman, Standing Committee on the Federal Judiciary, American Bar Association.

DEAR SIRS: The American Bar Association has recently issued a "Not Qualified" rating for two nominees currently pending before the Senate Judiciary Committee: Michael Wallace, of Mississippi, who has been nominated to the U.S. Court of Appeals for Fifth Circuit and Judge Vanessa Bryant, of Connecticut, who has been nominated to the U.S. District Court for the District of Connecticut. Mr. Wallace is a well regarded appellate litigator and a former U.S. Supreme Court clerk with excellent academic credentials. Judge Bryant would be the first African-American woman nominated to district court in New England. Public accounts suggest that she has been an effective judge on the Connecticut Superior Court.

In accordance with the past practice of the Judiciary Committee, I intend to invite the American Bar Association to provide testimony at the hearings for each of these nominees. Considering their impressive resumes, your "Not Qualified" ratings have left many observers curious as to the basis for your conclusions. I write to request that you provide the Committee with the materials supporting your ratings of these nominees as soon as possible.

As a matter of fundamental fairness, the nominees deserve time to prepare a response to whatever allegations you may raise in your testimony. Waiting until twenty-four hours before the hearings neither gives the nominees the opportunity to respond, nor does it give Members of the Judiciary Committee adequate time to prepare. Promptly delivering the substance of these allegations to the Committee will allow the nominees fully to respond to them in an open hearing. Similarly, a well developed record will allow members of the Committee to make a considered judgment.

One of your predecessors once testified before the Committee that a "Not Qualified" rating is "only as good as the reasons which support it." I agree, and accordingly request that the ABA share with the Committee without delay the report on which is rating is based. If the ABA is concerned about maintaining the confidentiality of those it has interviewed during its assessment, I am prepared to instruct Committee members and staff to treat the report

on a confidential basis, much as is currently done with FBI background investigation files.

I thank you for your attention to this matter and for your continued service to the profession.

Sincerely,

ARLEN SPECTER.

C. LETTER: STEPHEN L. TOBER TO CHAIRMAN SPECTER

AMERICAN BAR ASSOCIATION,
STANDING COMMITTEE ON FEDERAL JUDICIARY,
Washington, DC, June 30, 2006.

Hon. ARLEN SPECTER,
Chair, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This will acknowledge receipt of your recent correspondence regarding the "not qualified" ratings of judicial nominees, Michael Wallace and Judge Vanessa Bryant, issued recently by the ABA Standing Committee on Federal Judiciary. The Standing Committee is, as always, willing to provide your Committee with detailed explanations of the bases for these two "not qualified" ratings and is looking forward to the opportunity to testify at the nominees' confirmation hearings.

I want to assure you that, in accordance with our long-established practices, the circuit member or members assigned to conduct the investigation of the professional qualifications of each nominee met personally and at length with the nominee and discussed any adverse information uncovered during the investigation. Our explanatory booklet, which is provided to every nominee at the start of the investigation, specifically states:

"During the interview, the circuit member discusses with the nominee his or her qualifications for a judgeship and raises any adverse information discovered during the investigation. The nominee is given a full opportunity to rebut the adverse information and provide any additional information bearing on it."

During the course of our investigations, Judge Bryant was interviewed once and Mr. Wallace was interviewed twice. The circuit investigators adhered to the Standing Committee's straightforward procedures during all of the interviews. Consequently, at the conclusion of the interviews, both nominees were fully appraised of any negative information the Standing Committee relied upon to support its evaluations.

We also appreciate your Committee's need to thoroughly understand the basis for our "not qualified" rating of a nominee's professional qualifications from the Standing Committee as you deliberate the fitness of each nominee for a lifetime appointment to the Federal bench. Once the hearing dates are announced and we are invited to testify we will certainly comply with the Judiciary Committee's rules and provide you with copies of our written statements, detailing the bases for our ratings, 48 hours in advance of each hearing. Furthermore, in light of your request, please know that we will do our best to complete and submit our written statements to the Committee so that you will hopefully have them more than 48 hours in advance.

We fully understand the desire of the Senate Judiciary Committee to have a explanation for a "not qualified" rating. We will continue to strive to present those explanations to you in a timely manner as part of our independent peer review for consideration by your Committee in performing its critical role in the confirmation process.

Sincerely,

STEPHEN L. TOBER,
Chair.

D. LETTER: CHAIRMAN SPECTER TO AMERICAN BAR ASSOCIATION (MICHAEL S. GRECO AND STEPHEN L. TOBER)

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, August 7, 2006.

Mr. MICHAEL S. GRECO,
President, American Bar Association.

Mr. STEPHEN L. TOBER,
Chairman, Standing Committee on the Federal Judiciary, American Bar Association.

DEAR SIRS: This is the second time I have had occasion to write you in connection with the nominations of Michael Wallace of Mississippi and Vanessa Bryant of Connecticut. Both nominees have distinguished resumes. Both, however, have been rated "Not Qualified" by the American Bar Association ("ABA"). In the first letter, you were asked to provide the Committee with your testimony on these nominations as soon as possible. You were also asked to share with the Committee the reports on which these ratings are based. Furthermore, you were assured that the Committee would treat such reports on a confidential basis, as we currently handle reports we receive from the Federal Bureau of Investigation ("FBI").

Your reply letter did not address the request that you provide the Committee with your reports. You did, however, provide assurances that your testimony would be provided as quickly as practicable, and hoped you could deliver the testimony at least 48 hours before the hearing scheduled on the Wallace and Bryant nominations. On the afternoon of July 18, some 24 hours before the scheduled hearing, the Committee received your testimony. I have since prepared that hearing.

I have had the opportunity to review the testimony with regard to both nominees, and I am troubled by your submission. Your testimony raises serious charges, but only supports those allegations with anonymous quotations, presented without context. Testimony of this sort is impossible to verify or to otherwise further investigate. Worse, it can give some the unfortunate impression of a smear campaign conducted against the nominees. The nominees, publicly branded "Not Qualified" and—in your testimony—worse, do not have the opportunity to confront their accusers.

There also exist concerns with respect to the appearance of bias in the ratings process with regard to the Wallace nomination. During the 1980s, Mr. Wallace was appointed by President Ronald Reagan to serve as Director and Chairman of the Legal Services

Corporation ("LSC"). At that time, the ABA took strong and vocal positions against President Reagan's agenda for the LSC and took issue with Mr. Wallace's leadership of its board. There is nothing wrong with the ABA taking such positions, but when an institution has strongly held views on a policy question and when it has a history of passionately opposing a nominee's work on that question, some may reasonably question the capacity of that institution to provide an objective review of that nominee.

Compounding the concerns about institutional bias, some have raised issues of personal bias on the part of individuals directly involved in this process. I understand that Mr. Tober had a heated public exchange with Mr. Wallace at a December 1987 LSC meeting. The Committee has also been informed that Mr. Greco had a similar public exchange with Mr. Wallace at a panel discussion on legal services at the ABA's annual meeting in 1989. Furthermore, Ms. Marna Tucker, now the D.C. Circuit representative on the Federal Judiciary, served as organizer of that contentious panel discussion. While ours is an adversarial profession, and we expect advocates to argue vigorously on behalf of the issues they represent, it becomes problematic when those advocates are then placed in a role passing judgment on their opponents.

On page 12 of your "Backgrounder," formally titled "Standing Committee on the Federal Judicary—What it is and How it Works," it is stated that "No member of the Committee shall participate in the work of the Committee if such participation would give rise to the appearance of impropriety or would otherwise be incompatible with the purposes served and functions performed by the Committee." During this Congress alone, members of the ABA's Standing Committee have recused themselves from the ratings of no fewer than six nominees. It would appear that Mr. Tober would have been well advised to consider recusing himself from the rating of Mr. Wallace, given their personal history. As Chairman, Mr. Tober has an opportunity to influence members of the ABA's Standing Committee, to filter the information that is available to it, and to shape its final report. I understand that in the case of a tie vote, Mr. Tober would also be in the position of casting the deciding ballot. As a consequence, it would seem that he would have an even higher duty to recuse himself. I nevertheless appreciate Mr. Tober's excellent work on behalf of the Standing Committee and am aware that this is not an easy job, nor are these easy calls to make.

Given these concerns, however, I would request that the ABA promptly take the following steps:

First, the ABA should immediately revoke its "Not Qualified" rating of Mr. Wallace and begin a new review process. Although there is little that can be done about the appearance of institutional bias, the ABA can certainly take steps to alleviate the concerns of personal bias. Mr. Tober should recuse himself, as should anyone else who has a personal history with this nominee or whose impartiality may reasonably be questioned on any other ground. Ideally, the ABA should convene an entirely new, "special" committee for this purpose. Mr. Greco, given his history with the nominee, should recuse himself from the selection of the committee's members.

Second, I request that the ABA provide the Senate Judiciary Committee with the reports upon which its ratings of Mr. Wallace and Judge Bryant are based—this includes both the "informal report" and "formal written report" discussed on page 7 of the "Backgrounder." The Committee will treat these reports in the same manner in which we treat FBI background investigation reports. Under the protocols adopted for use with FBI reports, your reports would be kept in a safe located in a secure room. There would be no duplicate copies made. Only Senators and specified staff with security clearances (approximately three majority and three majority staffers) would have access to the reports.

When the FBI uncovers adverse information about a nominee, it provides considerable context, even in the case of anonymous sources. For example, in the circumstances in which an anonymous source is included in the background report, the FBI provides us with a detailed description of the interview, explaining the nature and substance of the allegations against the nominee. Even without a specific name, this allows Committee staff to investigate further and fully brief the Committee. Moreover, unlike the ABA's practice, anonymous sources in FBI reports are the exception, not the rule. If a specific source of your requests that his or her name be redacted from the reports you make available to the Committee, as with the FBI reports, we would consider making such an accommodation. It must be remembered, however, that the FBI report is not made public, so only Committee Members have access to the information, while the ABA provides a written public statement accompanying the testimony it makes available to the Committee. Oftentimes, these statements may include the comments of anonymous sources. I am not asking that the ABA provide anything that the FBI does not. Committee staff have worked together to conduct investigation in a bipartisan and discrete manner. I can assure you that if they can do so with materials assembled by the FBI, they can do the same with materials assembled by the ABA.

In fact, it is the Committee's Constitutional duty, and a matter of fundamental fairness of the nominees, that we discern the basis for the public rebukes the ABA lodges against individuals who have been nominated to the bench. Without giving either the nominees or the members of this Committee the opportunity to review the materials supporting the rating, a full and fair hearing is not possible.

Thank you for your prompt attention to this letter and for your continued service to the profession.

Sincerely,

ARLEN SPECTER.

E. LETTER: THEODORE B. OLSON (ON BEHALF OF ABA) TO CHAIRMAN SPECTER

GIBSON, DUNN & CRUTCHER LLP,
Washington, DC, September 14, 2006.

Re American Bar Association, Standing Committee on Federal Judiciary

Senator ARLEN SPECTER,
Chairman, Committee on the Judiciary,
Washington, DC.

DEAR CHAIRMAN SPECTER: This letter responds to your letter of August 7, 2006, addressed to then-ABA President Michael S. Greco and Stephen L. Tober, then Chairman of the ABA's Standing Committee on Federal Judiciary ("SCFJ"). As I have informed Committee Chief Counsel and Staff Director Michael O'Neill, the ABA and the SCFJ have retained me to assist them in responding to and addressing the concerns you raise in that letter.

Mr. O'Neill and I have had several conversations and one meeting since the date of your letter. The SCFJ has taken seriously the matters you have raised and has carefully reviewed its policies, procedures and practices for the evaluation of nominees for the federal judiciary. As a result, it has determined to make certain modifications that we believe are responsive to your concerns, while retaining the degree of confidentiality that is absolutely necessary for the SCFJ to gather the very sensitive information and candid input necessary for it to perform its valuable function of providing peer-based evaluations of the qualifications of nominees for federal judicial positions.

First, with respect to Mr. Wallace, a supplemental evaluation will be conducted to re-evaluate his professional qualifications. This will be conducted by Tim Hopkins of Hopkins Roden Crockett Hansen & Hoopes, PLLC of Idaho Falls, Idaho, and Pamela A. Bresnahan of Vorys, Sater, Seymour and Pease, of Washington, D.C. Neither Ms. Bresnahan nor Mr. Hopkins has any prior personal or professional relationship with Mr. Wallace. Neither Mr. Greco nor Mr. Tober will be involved int he supplemental evaluation. The Standing Committee has several new members, and is now chaired by Roberta Liebenberg of the Philadelphia firm of Fine, Kaplan and Black. Thus, while the SCFJ and the new investigators will, of course, have access to all of the previous materials pertaining to the extensive evaluations of Mr. Wallace's qualifications, a supplemental evaluation will take place with new investigators, a new Chair and a changed membership. This supplemental evaluation is being performed in accordance with the SCFJ's normal procedures, which provide for supplemental evaluations of individuals whose nominations have been returned or withdrawn, and then resubmitted by the President.

Second, the Standong Committee has strengthened its recusal procedures, a point you mention in your letter. From this point forward, no SCFJ Member, including the Chair, will participate in the evaluation or vote on the rating of a nominee "in any instance in which such member's impartiality might reasonably be questioned." The Standing Committee's procedure already provides for recusal if participation "would give rise to the appearance of impropreity

or would otherwise be incompatible with the purposes served and functions performed by the Committee." The SCFJ will make other changes to strengthen the recusal procedures and additionally make it clear that a recused member will not have access to the Committee's report or "participate in any deliberation . . . concerning the nominee."

Third, existing procedures will also be revised to require the appointment of a second investigator "in *every* instance in which a Committee Member has submitted an Informal Report which recommends a 'Not Qualified' rating. The second investigator *shall independently* evaluate the professional qualifications of the nominee *and make his or her own recommended rating.*" (Emphasis added.) This assures that a nominee faced with a "Not Qualified" rating will receive of a second independent evaluation and recommendation to the SCFJ.

Fourth, the Standing Committee will also make public its procedures regarding any supplemental evaluation that occurs when a nomination has been withdrawn or returned and resubmitted by the President. That process will focus on new information developed after a prior rating or any additional information that the Chair of the SCFJ may deem appropriate to ensure a thorough review of the nominee's professional qualifications. And, during any such supplemental evaluation, "the nominee will be given a full opportunity to rebut any adverse information and the investigator will follow-up on any information provided by the nominee."

Fifth, with respect to adverse information, the Standing Committee's practices will be clarified to provide that the nominee and the Judiciary Committee be given as much context as reasonably possible in order to provide the nominee the greatest opportunity to rebut the information. At the same time, the Committee will continue to honor its promises of confidentiality to sources of information in order to ensure candid and complete assessments of the professional qualifications of nominees.

Sixth, as suggested by Mr. O'Neill in my communications with him, the report by the SCFJ submitted to the Judiciary Committee for public disclosure will not contain unattributed quotations of adverse comments concerning the nominee. Instead, the substance of such adverse comments will be summarized, while providing as much specificity as possible. If requested by the Judiciary Committee, as non-public version of the report containing such quotations, but not including the identity of the source or information that would compromise the confidentiality promised to the interviewee, will be submitted to the Judiciary Committee Members and cleared staff, but will not be released publicly.

Seventh, if the SCFJ has had the customary 35 days to conduct its evaluation, vote and submit its rating to the Judiciary Committee and receives at least seven days' advance notice of a scheduled hearing on a nominee, it will submit a written statement explaining its "Not Qualified" rating 48 hours in advance of the scheduled hearing on a confidential basis for dissemination only to the Judiciary Committee Members and staff and the nominee, but not for disclosure to the public or any other person.

Eight, the Standing Committee's evaluation begins when it receives the nominee's response to the public portion of the Judiciary

Committee questionnaire ("PDQ") from the Department of Justice and the signed Waiver of Confidentiality. The Standing Committee will use its best efforts to complete its evaluation, vote and submit its rating to the Senate Judiciary Committee within 35 days. The SCFJ Chair will notify the Judiciary Committee if, for any reason, the evaluation is expected to take appreciably longer.

I believe that these modifications to the Standing Committee's policies and procedures are responsive to your concerns, while preserving the Standing Committee's ability to promise that it will respect a request for confidentiality by judges, lawyers and other who provide important information concerning a nominee only on such a condition. Without the continued ability to make those commitments, the Standing Committee will simply be unable to make a fully informed assessment and evaluation of the professional qualifications of a prospective member of the federal judiciary.

I am grateful for Mr. O'Neill's assistance in discussing your concerns and formulating clarifications to the SCFJ's policies, processes and practices to respond to those concerns.

Roberta Liebenberg and I are available to meet with you to answer any questions or provide any further assistance.

Very truly yours,

THEODORE B. OLSON.

V. SUMMARY MATERIALS REGARDING NOMINATIONS

A. ARTICLE III JUDGES CONFIRMED

Supreme Court

John G. Roberts (Chief Justice of the United States)
Samuel A. Alito (Associate Justice)

Circuit Court

Janice R. Brown (DC Circuit)
Michael A. Chagares (3rd Circuit)
Neil M. Gorsuch (10th Circuit)
Richard A. Griffin (6th Circuit)
Thomas B. Griffith (DC Circuit)
Jerome A. Holmes (10th Circuit)
Sandra Segal Ikuta (9th Circuit)
Kent A. Jordan (3rd Circuit)
Brett M. Kavanaugh (DC Circuit)
David W. McKeague (6th Circuit)
Kimberly Ann Moore (Federal Circuit)
Susan Bieke Neilson (6th Circuit)
Priscilla Richman Owen (5th Circuit)
William H. Pryor (11th Circuit)
Bobby E. Shepherd (8th Circuit)
Milan D. Smith, Jr. (9th Circuit)

District Court

Michael Ryan Barrett (Southern District of Ohio)
Timothy C. Batten, Sr. (Northern District of Georgia)
Francisco Augusto Besosa (District of Puerto Rico)
Joseph Frank Bianco (Eastern District of New York)
Rene Marie Bumb (District of New Jersey)
Timothy Mark Burgess (District of Alaska)
Brian M. Cogan (Eastern District of New York)
Robert J. Conrad (Western District of North Carolina)
Sean F. Cox (Eastern District of Michigan)
Paul A. Crotty (Southern District of New York)
Aida M. Delgado-Colon (District of Puerto Rico)
James C. Dever, III (Eastern District of North Carolina)
Kristi DuBose (Southern District of Alabama)
Gustavo Antonio Gelpi (District of Puerto Rico)
Thomas M. Golden (Eastern District of Pennsylvania)
Andrew J. Builford (Central District of California)
Noel Lawrence Hillman (District of New Jersey)
Thomas E. Johnston (Southern District of West Virginia)
Daniel Porter Jordan, III (Southern District of Mississippi)
Virginia Mary Kendall (Northern District of Illinois)
Stephen G. Larson (Central District of California)
Thomas L. Ludington (Eastern District of Michigan)
Harry Sandlin Mattice, Jr. (Eastern District of Tennessee)
Gray Hampton Miller (Southern District of Texas)
Brian Edward Sandoval (District of Nevada)
Patrick Joseph Schiltz (District of Minnesota)
J. Michael Seabright (District of Hawaii)

Peter G. Sheridan (District of New Jersey)
John Richard Smoak (Northern District of Florida)
Gregory F. Van Tatenhove (Eastern District of Kentucky)
Eric Nicholas Vitaliano (Eastern District of New York)
W. Keith Watkins (Middle District of Alabama)
Frank D. Whitney (Western District of North Carolina)
Susan Davis Wigenton (District of New Jersey)
Jack Zouhary (Northern District of Ohio)

Court of International Trade

Leo Maury Gordon

B. NOMINATIONS HEARINGS BY DATE

Date	Chair	Nominee	Position
January 6, 2005	Specter	Alberto Gonzales	Attorney General
March 1, 2005	Specter	William G. Myers, III	Ninth Circuit
March 3, 2005	Graham	Terrence W. Boyle	Fourth Circuit
March 8, 2005	Specter	Thomas B. Griffith	District of Columbia Circuit
April 27, 2005	Specter	Paul Clement	Solicitor General
May 12, 2005	Brownback	Rachel Brand	Assistant Attorney General
		Alice S. Fisher	Assistant Attorney General
		Regina B. Schofield	Assistant Attorney General
July 18, 2005	Specter	Timothy E. Flanigan	Deputy Attorney General
September 12–15, 2005	Specter	John G. Roberts	Chief Justice of the United States
September 29, 2006	Hatch	Margaret M. Sweeney	Court of Federal Claims
		Thomas Craig Wheeler	Court of Federal Claims
		John Richard Smoak	Northern District of Florida
		Brian Edward Sandoval	District of Nevada
		Harry S. Mattice, Jr	Eastern District of Tennessee
October 6, 2005	Cornyn	Wan Kim	Assistant Attorney General
		Steven G. Bradbury	Assistant Attorney General
		Sue Ellen Wooldridge	Assistant Attorney General
		Thomas O. Barnett	Assistant Attorney General
October 18, 2005	Cornyn	James F.X. O'Gara	Deputy Director for Supply Reduction
		Julie Myers	Assistant Secretary for Immigration & Customs Enforcement
		Emilio Gonzalez	Director of Bureau of Citizenship and Immigration Services
November 1, 2005	Schumer	Eric Nicholas Vitaliano	Eastern District of New York
		Gregory Van Tatenhove	Eastern District of Kentucky
		Joseph Frank Bianco	Eastern District of New York
		Timothy Mark Burgess	District of Alaska
November 8, 2005	Cornyn	Carol E. Dinkins	Chairman, Privacy and Civil Liberties Oversight Board
		Alan Charles Raul	Vice Chairman, Privacy and Civil Liberties Oversight Board
November 15, 2005	Sessions	Virginia Mary Kendall	Northern District of Illinois
		Kristi DuBose	Southern District of Alabama
		W. Keith Watkins	Middle District of Alabama
January 9–13, 2005	Specter	Samuel A. Alito	Supreme Court Justice
February 2, 2006	Specter	Paul J. McNulty	Deputy Attorney General
February 7, 2006	Cornyn	Timothy C. Batten, Sr	Northern District of Georgia
		Thomas E. Johnston	Southern District of West Virginia
		Leo Maury Gordon	Court of International Trade
		Aida M. Delgado-Colon	District of Puerto Rico
February 15, 2006	DeWine	Stephen G. Larson	Central District of California
		Jack Zouhary	Northern District of Ohio
		John F. Clark	Director, United States Marshal Service
March 1, 2006	Coburn	N. Randy Smith	Ninth Circuit

Date	Chair	Nominee	Position
		Patrick Joseph Schiltz	District of Minnesota
March 14, 2006	Sessions	Michael A. Chagares	Third Circuit
		Gray Hampton Miller	Southern District of Texas
		Jeffrey L. Sedgwick	Director, Bureau of Justice Statistics
		Sharee M. Freeman	Director, Community Relations Service
March 29, 2006	Specter	Brian M. Cogan	Eastern District of New York
		Michael Ryan Barrett	Southern District of Ohio
		Thomas M. Golden	Eastern District of Pennsylvania
April 25, 2006	Hatch	Milan D. Smith, Jr	Ninth Circuit
		Renee Marie Bumb	District of New Jersey
		Noel Lawrence Hillman	District of New Jersey
		Peter G. Sheridan	District of New Jersey
		Susan Davis Wigenton	District of New Jersey
May 2, 2006	Brownback	Sandra Segal Ikuta	Ninth Circuit
		Sean F. Cox	Eastern District of Michigan
		Thomas L. Ludington	Eastern District of Michigan
		Kenneth L. Wainstein	Assistant Attorney General
May 9, 2006	Specter	Brett Kavanaugh	Ninth Circuit
May 24, 2006	Graham	Andrew J. Guilford	Central District of California
		Frank D. Whitney	Western District of North Carolina
June 15, 2006	Coburn	Jerome A. Holmes	Tenth Circuit
		Daniel P. Jordan, III	Southern District of Mississippi
		Gustavo A. Gelpi	District of Puerto Rico
June 21, 2006	Graham	Neil M. Gorsuch	Tenth Circuit
June 28, 2006	Hatch	Kimberly Ann Moore	Federal Circuit
		Bobby E. Shepherd	Eight Circuit
July 11, 2006	Specter	William J. Haynes, II	Fourth Circuit
		Frances Tydingco-Gatewood	District of Guam
August 1, 2006	Cornyn	Peter D. Keisler	District of Columbia Circuit
		Valerie L. Baker	Central District of California
		Francisco Besosa	District of Puerto Rico
		Philip S. Gutierrez	Central District of California
September 6, 2006	DeWine	Kent A. Jordan	Third Circuit
		Marcia Morales Howard	Middle District of Florida
		John Alfred Jarvey	Southern District of Iowa
		Sara Elizabeth Lioi	Northern District of Ohio
September 12, 2006	Coburn	Nora Barry Fischer	Western District of Pennsylvania
		Gregory K. Frizzell	Northern District of Oklahoma
		Lawrence Joseph O'Neill	Eastern District of California
		Lisa G. Wood	Southern District of Georgia
September 19, 2006	Brownback	Robert James Jonker	Western District of Michigan
		Paul Lewis Maloney	Western District of Michigan
		Janet T. Neff	Western District of Michigan
		Leslie Southwick	Southern District of Mississippi
September 26, 2006	Specter	Michael B. Wallace	Fifth Circuit
		Vanessa L. Bryant	District of Connecticut
November 14, 2006	Specter	Thomas Hardiman	Third Circuit

C. DAYS ON THE SENATE FLOOR

Nominee	Office	Nominated	Confirmed	Days on floor
Alito, Samuel A	Supreme Court Justice	11/10/2005	1/31/2006	5
Barrett, Michael Ryan	Southern District of Ohio Judge	12/16/2005	5/1/2006	1
Batten, Sr., Timothy	Northern District of Georgia Judge	9/28/2005	3/6/2006	1
Besosa, Francisco Augusto	District of Puerto Rico Judge	5/16/2006	9/25/2006	1
Brown, Janice R	D.C. Circuit Judge	2/14/2005	6/8/2006	3
Bumb, Renee Marie	District of New Jersey Judge	1/25/2006	6/6/2006	1
Chagares, Michael A	Third Circuit Judge	1/25/2006	5/4/2006	1
Cogan, Brian M	Eastern District of New York Judge	1/25/2006	5/4/2006	1
Conrad, Robert J	Eastern District of New York Judge	2/14/2005	4/28/2005	1

Nominee	Office	Nominated	Confirmed	Days on floor
Cox, Sean F	Eastern District of Michigan Judge	2/14/2005	6/8/2006	1
Crotty, Paul A	Southern District of New York Judge	2/14/2005	4/11/2005	1
DeGabrielle, Donald J., Jr	Southern District of Texas U.S. Attorney	2/13/2006	3/13/2006	1
Delgado-Colon, Aida M	District of Puerto Rico Judge	10/25/2005	3/6/2006	1
Dever, III, James C	Eastern District of North Carolina Judge	2/14/2005	4/28/2005	1
Dinkins, Carol E	Chairman Privacy and Civil Liberties Oversight Board.	9/28/2005	2/17/2006	1
Fisher, Alice S	Assistant Attorney General	4/4/2005	9/19/2005	1
Gelpi, Gustavo Antonio	District of Puerto Rico Judge	4/24/2006	7/20/2006	1
Golden, Thomas M	Eastern District of Pennsylvania Judge	1/25/2006	5/4/2006	1
Gonzales, Alberto	Attorney General	1/4/2005	2/3/2005	3
Gordon, Leo Maury	Court of International Trade	11/10/2005	3/13/2006	1
Gorsuch, Neil M	Tenth Circuit Judge	5/10/2006	7/20/2006	1
Griffith, Thomas B	D.C. Circuit Judge	2/14/2005	6/14/2005	2
Guilford, Andrew J	Central District of California Judge	1/25/2006	6/22/2006	1
Hillman, Noel Lawrence	District of New Jersey Judge	1/25/2006	6/8/2006	1
Holmes, Jerome A	Tenth Circuit Judge	5/4/2006	7/25/2006	2
Ikuta, Sandra Segal	Ninth Circuit Judge	2/8/2006	6/19/2006	1
Johnston, Thomas E	Southern District of West Virginia	9/28/2005	3/6/2006	1
Jordan, III, Daniel Porter	Southern District of Mississippi Judge	4/24/2006	7/20/2006	1
Jordan, Kent A	Third Circuit Judge	6/28/2006	12/8/2006	1
Kavanaugh, Brett M	D.C. Circuit Judge	1/25/2006	5/26/2006	3
Kim, Wan J	Assistant Attorney General	6/16/2005	11/4/2005	1
Larson, Stephen G	Central District of California Judge	12/15/2005	3/16/2006	1
Ludington, Thomas L	Eastern District of Michigan Judge	2/14/2005	6/8/2006	1
Mattice, Harry Sandlin, Jr	Eastern District of Tennessee Judge	7/28/2005	10/24/2005	1
McKeague, David W	Sixth Circuit Judge	2/14/2005	6/9/2005	1
Miller, Gray Hampton	Southern District of Texas Judge	1/25/2006	4/25/2006	1
Moore, Kimberly Ann	Federal Circuit Judge	5/18/2006	9/5/2006	1
Neilson, Susan Bieke	Sixth Circuit Judge	2/14/2005	10/27/2005	1
Owen, Priscilla Richman	Fifth Circuit Judge	2/14/2005	5/25/2005	6
Pryor, William H., Jr	Eleventh Circuit Judge	2/14/2005	6/9/2006	2
Roberts, John G	Chief Justice of the United States	9/6/2006	9/29/2006	4
Sandoval, Brian Edward	District of Nevada Judge	3/1/2005	10/24/2005	1
Schiltz, Patrick Joseph	District of Minnesota Judge	12/14/2005	4/26/2006	1
Seabright, Michael J	District of Hawaii Judge	2/14/2005	4/27/2005	1
Shappert, Gretchen	Western District of North Carolina U.S. Attorney.	2/14/2005	6/8/2005	1
Shepherd, Bobby E	Eight Circuit Judge	5/18/2006	7/20/2006	1
Sheridan, Peter G	District of New Jersey Judge	2/14/2005	6/8/2005	1
Smith, Milan D., Jr	Ninth Circuit Judge	2/14/2006	5/16/2006	1
Smoak, John Richard	Northern District of Florida Judge	6/8/2005	10/27/2005	1
Thapar, Annul R	Eastern District of Kentucky U.S. Attorney	2/17/2006	3/13/2006	1
Wainstein, Kenneth L	Assistant Attorney General	3/13/2006	9/21/2006	1
Whitney, Frank D	Western District of North Carolina Judge	2/14/2006	6/22/2006	1
Zouhary, Jack	Northern District of Ohio Judge	12/14/2005	3/16/2006	1
Total				74

D. HISTORICAL VACANCY RATES 1977–PRESENT

VACANCIES 1977–PRESENT

Year *	District (percent)	Circuit (percent)	District and Circuit ** (percent)
1977	6.3	10.3	7.1
1978	3.8	2.1	3.4
1979	23.1	28.8	24.2
1980	6.2	4.5	5.9
1981	7.9	6.8	7.7
1982	3.9	5.3	4.2
1983	4.9	2.8	4.4

VACANCIES 1977–PRESENT—Continued

Year *	District (percent)	Circuit (percent)	District and Circuit ** (percent)
1984	3.1	1.4	2.7
1985	13.0	13.1	13.1
1986	7.0	6.5	6.9
1987	7.5	7.7	7.5
1988	4.9	6.0	5.1
1989	6.3	7.1	6.5
1990	5.9	6.0	5.9
1991	17.3	13.4	16.4
1992	12.9	9.5	12.2
1993	16.5	11.2	15.3
1994	9.2	10.1	9.4
1995	7.1	6.1	6.9
1996	6.8	10.1	7.5
1997	10.7	13.4	11.3
1998	8.5	9.5	8.7
1999	5.9	13.4	7.5
2000	6.6	12.8	7.9
2001	11.3	17.9	12.7
2002	7.7	15.1	9.2
2003	4.1	10.1	5.4
2004	2.2	7.3	3.3
2005	5.3	6.7	5.6
2006	4.7	8.4	5.5

* Vacancy rates for 1977–1992 are as of June 30th. Rates from 1993 to present are as of September 30th.
** Does not include U.S. Supreme Court or U.S. Court of International Trade.

E. HISTORICAL VACANCY RATES BY CONGRESS

101ST CONGRESS
Republican President (Bush)—Democrat Senate (Biden)

	Start of Congress January 3, 1989			End of Congress October 28, 1990			
	Judgeships	Vacanies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	1	0	0.0
Court of Appeals	168	10	6.0	168	22	7	4.2
District Court	575	26	4.5	575	48	25	4.3
Court of International Trade	9	1	11.1	9	0	1	11.1
Total	761	37	4.9	761	71	33	4.3

102ND CONGRESS
Republican President (Bush)—Democrat Senate (Biden)

	Start of Congress January 3, 1991			End of Congress October 8, 1992			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	1	0	0.0
Court of Appeals	179	18	10.1	179	20	16	8.9
District Court *	649	107	16.5	649	100	79	12.2
Court of International Trade	9	1	11.1	9	1	2	22.2
Total	846	126	14.9	846	122	97	11.5

103RD CONGRESS
Democrat President (Clinton)—Democrat Senate (Biden)

	Start of Congress January 5, 1993			End of Congress December 1, 1994			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacany rate (percent)
Supreme Court	9	0	0.0	9	2	0	0.0
Court of Appeals	179	17	9.5	179	19	15	8.4
District Court*	649	90	13.9	649	107	46	7.1
Court of International Trade	9	2	22.2	9	0	2	22.2
Total	846	109	12.9	846	128	63	7.4

104TH CONGRESS
Democrat President (Clinton)—Republican Senate (Hatch)

	Start of Congress January 3, 1995			End of Congress October 3, 1996			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	0	0	0.0
Court of Appeals	179	16	8.9	179	11	18	10.1
District Court*	649	52	8.0	647	62	46	7.1
Court of International Trade	9	2	22.2	9	2	1	11.1
Total	846	70	8.3	844	75	65	7.7

105TH CONGRESS
Democrat President (Clinton)—Republican Senate (Hatch)

	Start of Congress January 7, 1997			End of Congress October 21, 1998			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	0	0	0.0
Court of Appeals	179	22	12.3	179	20	14	7.8
District Court*	646	62	9.6	646	79	35	5.4
Court of International Trade	9	1	11.1	9	2	1	11.1
Total	843	85	10.1	843	101	50	5.9

106TH CONGRESS
Democrat President (Clinton)—Republican Senate (Hatch)

	Start of Congress January 4, 1999			End of Congress December 15, 2000			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	0	0	0.0
Court of Appeals	179	17	9.5	179	15	25	14.0
District Court*	642	41	6.4	651	57	42	6.5
Court of International Trade	9	1	11.1	9	1	0	0.0
Total	839	59	7.0	848	73	67	7.9

107TH CONGRESS
Democrat President (Clinton)—Republican Senate (Leahy)

	Start of Congress January 3, 2001			End of Congress November 20, 2002			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	0	0	0.0
Court of Appeals	179	26	14.5	179	17	25	14.0
District Court*	661	58	8.8	661	83	34	5.1
Court of International Trade	9	0	0.0	9	0	1	11.1
Total	858	84	9.8	858	100	60	7.0

108TH CONGRESS
Democrat President (Clinton)—Republican Senate (Hatch)

	Start of Congress January 7, 2003			End of Congress December 9, 2004			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	0	0	0.0
Court of Appeals	179	25	14.0	179	18	13	7.3
District Court*	661	34	5.1	674	85	16	2.4
Court of International Trade	9	1	11.1	9	1	0	0.0
Total	858	60	7.0	871	104	29	3.3

109TH CONGRESS
Republican President (Bush)—Republican Senate (Specter)

	Start of Congress January 4, 2005			End of Congress December 9, 2006			
	Judgeships	Vacancies	Vacancy rate (percent)	Judgeships	Confirmed	Vacancies	Vacancy rate (percent)
Supreme Court	9	0	0.0	9	2	0	0.0
Court of Appeals	179	15	8.4	179	16	15	8.4
District Court*	674	21	3.1	674	35	36	5.3
Court of International Trade	9	1	11.1	9	1	0	0.0
Total	871	37	4.2	871	54	51	5.9

F. DISPOSITION OF ARTICLE III JUDGES

UNITED STATES COMMITTEE ON THE JUDICIARY

DISPOSITION OF ARTICLE III COURTS [1], 101ST–109TH CONGRESS

[As of December 9, 2006]

Presidential term	Congress	Total confirmed	Judges confirmed			Judges rejected	Returned	Withdrawn	Pending	Total unconfirmed
			District	Circuit	Other [2]					
G.H.W. Bush	101	71	48	22	1	.....	2	.....	.....	2
	102	122	100	20	2	.....	[3] 54	1	.....	55
Bush Total	.....	193	148	42	3	.....	56	1	.....	57
Clinton 1	103	128	107	19	2	.....	5	0	.....	5
	104	75	62	11	2	.....	3	4	.....	7
Sub-total	.....	203	169	30	4	.....	8	4	.....	12
Clinton 2	105	101	79	20	2	.....	8	5	.....	13
	106	73	57	15	1	1	[4] 41	3	.....	45
Sub-total	.....	174	136	35	3	1	49	8	.....	58
Clinton Total	.....	377	305	65	7	1	57	12	.....	70
G. W. Bush 1	107	100	83	17	0	.....	.....	.....	.....	.....
	108	104	85	18	1	.....	23	2	.....	25
Sub-total	.....	204	168	35	1	.....	23	2	.....	25
G. W. Bush 2	109	54	35	16	3	.....	39	[5] 5	.....	44
Bush Total	.....	258	203	51	4	.....	62	7	.....	69

[1] Includes the U.S. Supreme Court, U.S. Circuit Courts, U.S. District Courts and U.S. Court of International Trade (CIT). Excludes territorial District Courts (Virgin Islands, Guam, Northern Mariana Islands) and the Court of Federal Claims.

[2] One Supreme Court Justice was confirmed in the 101st Congress, and another in the 102nd Congress. Two U.S. Supreme Court Justices were confirmed in the 103rd Congress. Two were confirmed in the 109th. The remaining judges in this category are CIT judges.

[3] Seventeen of these were later confirmed by the Senate (two in the 103rd Congress, one in the 104th Congress, two in the 105th Congress, eight in the 107th Congress, and four in the 108th Congress).

[4] Two of these nominees, Legrome Davis (ED-PA) and Roger Gregory (CCA–4) were later confirmed during the 107th Congress.

[5] The nomination of John Roberts to be Associate Justice was withdrawn and he was renominated to be Chief Justice. The nomination of Harriet Miers to be Associate Justice is the second. The remaining nominees in this category are Henry Saad (CCA–6), James Payne (CCA–10), and Daniel P. Ryan (E.D. MI).

G. RELEVANT DATES FOR 109TH CONGRESS NOMINEES

SUPREME COURT

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Alito, Jr. Samuel A	NJ	Confirmed	Supreme Court of the United States.	US Supreme Court Justice.	11/10/2005		1/9/2006	1/24/2006 10–8	1/31/2006 58–42		
Miers, Harriet Ellan	TX	Withdrawn.	Supreme Court of the United States.	US Supreme Court Justice.	10/7/2005						10/28/2005
Roberts, Jr., John G	MD	Confirmed	Supreme Court of the United States.	Chief Justice of the United States.	9/6/2005		9/12/2005	9/22/2005 13–5	9/29/2005 78–22		
Roberts, Jr., John G	MD	Withdrawn.	Supreme Court of the United States.	US Supreme Court Justice.	7/29/2005						9/6/2005

COURT OF INTERNATIONAL TRADE

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Gordon, Leo Maury	NJ	Confirmed	US Court of International Trade.	US Court of International Trade Judge.	11/10/2005		2/7/2006	2/16/2006 Voice Vote	3/13/2006 82–0		

CIRCUIT COURT

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Boyle, Terrence W	NC	Returned	Fourth Circuit	US Circuit Court Judge	11/15/2006 9/5/2006	2/14/2005	3/3/2005	6/16/2005 10–8		12/9/2006 9/29/2006 8/3/2006	
Brown, Janice R	CA	Confirmed	District of Columbia	US Circuit Court Judge	2/14/2005	7/25/2003	10/22/2003 (108th)	4/21/2005 10–8	6/8/2005 56–43	10/8/2004 (108th)	
Chagares, Michael A	NJ	Confirmed	Third Circuit	US Circuit Court Judge	1/25/2006		3/14/2006	3/30/2006 Voice Vote	4/4/2006 98–0		
Gorsuch, Neil M	CO	Confirmed	Tenth Circuit	US Circuit Court Judge	5/11/2006		6/21/2006	7/13/2006 Voice Vote	7/20/2006 Voice Vote		
Griffin, Richard A	MI	Confirmed	Sixth Circuit	US Circuit Court Judge	2/14/2005	1/7/2003	6/16/2004 (108th)	5/26/2005 Voice Vote	6/9/2005 95–0	12/8/2004 (108th)	
Griffith, Thomas B	UT	Confirmed	District of Columbia	US Circuit Court Judge	2/14/2005	5/10/2004	10/16/2004	4/14/2005 14–4	6/14/2005 73–24	12/8/2004 (108th)	

							3/8/2005				
Hardiman, Thomas M	PA	Returned	Third Circuit	US Circuit Court Judge	9/13/2006					12/9/2006	
Haynes, II, William James	VA	Returned	Fourth Circuit	US Circuit Court Judge	11/15/2006	2/14/2005	7/11/2006			12/9/2006	
					9/5/2006		11/19/2003			9/29/2006 8/3/2006	
Holmes, Jerome A	OK	Confirmed	Tenth Circuit	US Circuit Court Judge	2/14/2006		6/15/2006	7/13/2006 Voice Vote	7/25/2006 67–30		
Ikuta, Sandra Segal	CA	Confirmed	Ninth Circuit	US Circuit Court Judge	2/8/2006		5/2/2006	5/25/2006 Voice Vote	6/19/2006 81–0		
Jordan, Kent A	DE	Confirmed	Third Circuit	US Circuit Court Judge	6/29/2006		9/6/2006	9/26/2006	12/8/2006 91–0		
Kavanaugh, Brett M	MD	Confirmed	District of Columbia Circuit.	US Circuit Court Judge	1/25/2006	2/14/2005	5/9/2006	5/11/2006 10–8	5/26/2006 57–36	12/21/2005	
						7/25/2003	4/27/2004			12/8/2004	
Keisler, Peter D	MD	Returned	District of Columbia Circuit.	US Circuit Court Judge	11/15/2006		8/1/2006			12/9/2006	
					6/29/2006					9/29/2006	
Kethledge, Raymond M	MI	Returned	Sixth Circuit	US Circuit Court Judge	6/29/2006					12/9/2006	
Livingston, Debra Ann	NY	Returned	Second Circuit	US Circuit Court Judge	6/29/2006					12/9/2006	
McKeague, David W	MI	Confirmed	Sixth Circuit	US Circuit Court Judge	2/14/2005	1/7/2003	6/16/2004	5/26/2005 Voice Vote	6/9/2005 96–0	12/8/2004 (108th)	
Moore, Kimberly Ann	VA	Confirmed	Federal Circuit	US Circuit Court Judge	5/18/2006		6/28/2006	7/27/2006 Voice Vote	9/5/2006 92–0		
Murphy, III, Stephen Joseph.	MI	Returned	Sixth Circuit	US Circuit Court Judge	6/26/2006					12/9/2006	
Myers, III, William Gerry	ID	Returned	Ninth Circuit	US Circuit Court Judge	9/5/2006	2/14/2005	3/1/2005	3/17/2005 10–8		9/29/2006	
							2/5/2004	4/1/2004		8/3/2006 12/8/2004	
Neilson, Susan Bieke	MI	Confirmed	Sixth Circuit	US Circuit Court Judge	2/14/2005	1/7/2003	9/8/2004	10/20/2005 18–0	10/27/2005 97–0	12/8/2004 (108th)	
Owen, Priscilla Richman	TX	Confirmed	Fifth Circuit	US Circuit Court Judge	2/14/2005	1/7/2003	3/13/2003	4/21/2005 10–8	5/25/2005 55–43	12/8/2004 (108th)	
Payne, James Hardy	OK	Withdrawn.	Tenth Circuit	US Circuit Court Judge	9/29/2005						3/8/2006
Pryor, William H	AL	Confirmed	Eleventh Circuit	US Circuit Court Judge	2/14/2005	3/12/2004	6/11/2003 (108th)	5/12/2005 10–8	6/9/2005 53–45	12/8/2004 (108th)	
Saad, Henry W	MI	Withdrawn.	Sixth Circuit	US Circuit Court Judge	2/14/2005	1/7/2003					3/29/2006

CIRCUIT COURT—Continued

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Shepherd, Bobby E	AR	Confirmed	Eighth Circuit	US Circuit Court Judge	5/18/2006		6/28/2006	7/13/2006 Voice Vote	7/20/2006 Voice Vote		
Smith, Milan D	CA	Confirmed	Ninth Circuit	US Circuit Court Judge	2/14/2006		4/25/2006	5/4/2006 Voice Vote	5/16/2006 94–0		
Smith, Norman Randy	ID	Returned	Ninth Circuit	US Circuit Court Judge	11/15/2006 9/5/2006	1/3/2006	3/1/2006	9/21/2006 10–8 4/4/2006 Voice Vote		12/9/2006 9/29/2006 8/3/2006	
Wallace, Michael B	MS	Returned	Fifth Circuit	US Circuit Court Judge	11/15/2006 9/5/2006	2/8/2006	9/26/2006			12/9/2006 9/29/2006 8/3/2006	

DISTRICT COURT

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Bailey, John Preston	WV	Returned	Northern District of West Virginia.	US District Court Judge	6/29/2006					12/9/2006	
Baker, Valerie K	CA	Floor	Central District of California.	US District Court Judge	5/4/2006		8/1/2006	9/21/2006 Voice Vote		12/9/2006	
Barrett, Michael Ryan	OH	Confirmed	Southern District of Ohio	US District Court Judge	12/16/2005		3/29/2006	4/27/2006 Voice Vote	5/1/2006 90–0		
Batten, Sr., Timothy C	GA	Confirmed	Northern District of Georgia.	US District Court Judge	9/28/2005		2/7/2006	2/16/2006 Voice Vote	3/6/2006 88–0		
Besosa, Francisco Augusto.	PR	Confirmed	District of Puerto Rico	US District Court Judge	5/16/2006		8/1/2006	9/21/2006 Voice Vote	9/25/2006 87–0		
Bianco, Joseph Frank	NY	Confirmed	Eastern District of New York.	US District Court Judge	7/28/2005		11/1/2005	11/17/2006 Voice Vote	12/21/2005 Voice Vote		
Bryant, Vanessa Lynne	CT	Returned	District of Connecticut	US District Court Judge	1/25/2006		9/26/2006			12/9/2006	
Bumb, Renee Marie	NJ	Confirmed	District of New Jersey	US District Court Judge	1/25/2006		4/25/2006	5/4/2006 Voice Vote	6/6/2006 89–0		
Burgess, Timothy Mark	AK	Confirmed	District of Alaska	US District Court Judge	7/28/2005		11/1/2005	11/17/200 Voice Vote	12/21/2005 Voice Vote		

Cogan, Brian M	NY	Confirmed	Eastern District of New York.	US District Court Judge	1/25/2006		3/29/2006	4/27/2006 Voice Vote	5/4/2006 95–0		
Conrad, Robert J	NC	Confirmed	Western District of North Carolina.	US District Court Judge	2/14/2005	4/28/2003	3/3/2005	4/14/2005 Voice Vote	4/28/2005 Voice Vote	12/8/2004 (108th)	
Cox, Sean F	MI	Confirmed	Eastern District of Michigan.	US District Court Judge	2/14/2005	9/10/2004	5/2/2006	5/11/2006 Voice Vote	6/6/2006 Voice Vote	12/8/2004 (108th)	
Crotty, Paul A	NY	Confirmed	Southern District of New York.	US District Court Judge	2/14/2005	9/7/2004	11/16/2004	3/17/2005 Voice Vote	4/11/2005 95–0	12/8/2004 (108th)	
Delgado-Colon, Aida M	PR	Confirmed	District of Puerto Rico	US District Court Judge	10/26/2005		2/7/2006	2/16/2006 Voice Vote	3/6/2006 Voice Vote		
Dever, III, James C	NC	Confirmed	Eastern District of North Carolina.	US District Court Judge	2/14/2005	1/7/2003	3/3/2005	4/14/2005 Voice Vote	4/28/2005 Voice Vote	12/8/2004 (108th)	
Donohue, Mary O	NY	Returned	Northern District of New York.	US District Court Judge	6/29/2006					12/9/2006	
DuBose, Kristi	AL	Confirmed	Southern District of Alabama.	US District Court Judge	9/28/2005		11/15/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote		
Fischer, Nora Barry	PA	Floor	Western District of Pennsylvania.	US District Court Judge	7/14/2006		9/12/2006	9/29/2006 Voice Vote		12/9/2006	
Frizzell, Gregory Kent	OK	Floor	Northern District of Oklahoma.	US District Court Judge	6/7/2006		9/12/2006	9/29/2006 Voice Vote		12/9/2006	
Gelpi, Gustavo Antonio	PR	Confirmed	District of Puerto Rico	US District Court Judge	4/25/2006		6/15/2006	7/13/2006 Voice Vote	7/20/2006 Voice Vote		
Golden, Thomas M	PA	Confirmed	Eastern District of Pennsylvania.	US District Court Judge	1/25/2006		3/29/2006	4/27/2006 Voice Vote	5/4/2006 96–0		
Guilford, Andrew J	CA	Confirmed	Central District of California.	US District Court Judge	1/25/2006		5/24/2006	6/8/2006 Voice Vote	6/22/2006 93–0		
Gutierrez, Philip S	CA	Floor	Central District of California.	US District Court Judge	4/24/2006		8/1/2006	9/21/2006 Voice Vote		12/9/2006	
Hillman, Noel Lawrence	NJ	Confirmed	District of New Jersey	US District Court Judge	1/25/2006		4/25/2006	5/4/2006 Voice Vote	6/8/2006 98–0		
Holmes, Jerome A	OK	Withdrawn.	Northern District of Oklahoma.	US District Court Judge	2/14/2006						5/4/2006
Howard, Marcia Morales	FL	Floor	Middle District of Florida	US District Court Judge	6/6/2006		9/6/2006	9/29/2006 Voice Vote		12/9/2006	
Jarvey, John Alfred	IA	Floor	Southern District of Iowa	US District Court Judge	6/29/2006		9/6/2006	9/26/2006 Voice Vote		12/9/2006	
Johnston, Thomas E	WV	Confirmed	Southern District of West Virginia.	US District Court Judge	9/28/2005		2/7/2006	2/16/2006 Voice Vote	3/6/2006 89–0		
Jonker, Robert James	MI	Floor	Western District of Michigan.	US District Court Judge	6/29/2006		9/19/2006	9/29/2006 Voice Vote		12/9/2006	

DISTRICT COURT—Continued

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Jordan, III, Daniel Porter	MS	Confirmed	Southern District of Mississippi.	US District Court Judge ..	4/24/2006	.....	6/15/2006	7/13/2006 Voice Vote	7/20/2006 Voice Vote	.....	.....
Kendall, Virginia Mary	IL	Confirmed	Northern District of Illinois.	US District Court Judge ..	9/28/2005	.....	11/15/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote	.....	.....
Larson, Stephen G	CA	Confirmed	Central District of California.	US District Court Judge ..	12/15/2005	.....	2/15/2006	3/2/2006 Voice Vote	3/16/2006 Voice Vote	.....	.....
Lioi, Sara Elizabeth	OH	Floor	District of Ohio	US District Court Judge ..	7/14/2006	.....	9/6/2006	9/26/2006 Voice Vote	.....	12/9/2006	.....
Ludington, Thomas L	MI	Confirmed	Eastern District of Michigan.	US District Court Judge ..	2/14/2005	1/7/2003	5/2/2006	5/11/2006 Voice Vote	6/8/2006 Voice Vote	12/8/2004 (108th)	.....
Maloney, Paul Lewis	MI	Floor	Western District of Michigan.	US District Court Judge ..	6/29/2006	.....	9/19/2006	9/29/2006 Voice Vote	.....	12/9/2006	.....
Mattice, Jr., Harry Sandlin	TN	Confirmed	Eastern District of Tennessee.	US District Court Judge ..	7/28/2005	.....	9/29/2005	10/20/2005 Voice Vote	10/24/2005 91–0	.....	.....
Mauskopf, Roslynn Renee	NY	Returned	Eastern District of New York.	US District Court Judge ..	8/2/2006	.....	.....	.....	.....	12/9/2006	.....
Miller, Gray Hampton	TX	Confirmed	Southern District of Texas.	US District Court Judge ..	1/25/2006	.....	3/14/2006	3/30/2006 Voice Vote	4/25/2006 93–0	.....	.....
Neff, Janet T	MI	Floor	Western District of Michigan.	US District Court Judge ..	6/29/2006	.....	9/19/2006	9/29/2006 Voice Vote	.....	12/9/2006	.....
O'Grady	VA	Returned	Eastern District of Virginia.	US District Court Judge ..	8/2/2006	.....	.....	.....	.....	12/9/2006	.....
O'Neill, Lawrence Joseph	CA	Floor	Eastern District of California.	US District Court Judge ..	8/2/2006	.....	9/12/2006	9/21/2006 Voice Vote	.....	12/9/2006	.....
Osteen, Jr., William Lindsay.	NC	Returned	Middle District of North Carolina.	US District Court Judge ..	9/29/2006	.....	.....	.....	.....	12/9/2006	.....
Ozerden, Halil Suleyman	MS	Returned	Southern District of Mississippi.	US District Court Judge ..	9/5/2006	.....	.....	.....	.....	12/9/2006	.....
Reidinger, Martin Karl	NC	Returned	Western District of North Carolina.	US District Court Judge ..	9/29/2006	.....	.....	.....	.....	12/9/2006	.....
Ryan, Daniel P	MI	Withdrawn.	Eastern District of Michigan.	US District Court Judge ..	2/14/2005	4/28/2003	.....	.....	.....	.....	3/31/2006
Sandoval, Brian Edward ..	NV	Confirmed	District of Nevada	US District Court Judge ..	3/1/2005	.....	9/29/2005	10/20/2005 Voice Vote	10/24/2005 89–0	.....	.....
Schiltz, Patrick Joseph	MN	Confirmed	District of Minnesota	US District Court Judge ..	12/14/2005	.....	3/1/2006	3/30/2006 Voice Vote	4/26/2006 Voice Vote	.....	.....

Schroeder, Thomas D	NC	Returned	Middle District of North Carolina.	US District Court Judge	9/29/2006					12/9/2006	
Seabright, J. Michael	HI	Confirmed	District of Hawaii	US District Court Judge	2/14/2005	9/15/2004	11/16/2004	3/17/2005 Voice Vote	4/27/2005 Voice Vote	12/8/2004 (108th)	
Sheridan, Peter G	NJ	Confirmed	District of New Jersey	US District Court Judge	2/14/2005	11/5/2003	4/25/2006	5/4/2006 Voice Vote	6/8/2006 98–0	12/8/2004 (108th)	
Smoak, John Richard	FL	Confirmed	Northern District of Florida.	US District Court Judge	6/8/2005		9/29/2005	10/20/2005 Voice Vote	10/27/2005 97–0		
Southwick, Leslie	MS	Floor	Southern District of Mississippi.	US District Court Judge	6/6/2006		9/19/2006	9/29/2006 Voice Vote		12/9/2006	
VanTatenhove, Gregory F	KY	Confirmed	Eastern District of Kentucky.	US District Court Judge	9/13/2005		11/1/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote		
Vitaliano, Eric Nicholas	NY	Confirmed	Eastern District of New York.	US District Court Judge	10/7/2005		11/1/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote		
Watkins, W. Keith	AL	Confirmed	Middle District of Alabama.	US District Court Judge	9/28/2005		11/15/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote		
Whitney, Frank D	NC	Confirmed	Western District of North Carolina.	US District Court Judge	2/14/2006		5/24/2006	6/15/2006 Voice Vote	6/22/2006 Voice Vote		
Wigenton, Susan Davis	NJ	Confirmed	District of New Jersey	US District Court Judge	1/25/2006		4/25/2006	5/4/2006 Voice Vote	5/26/2006 Voice Vote		
Wood, Lisa Godbey	GA	Floor	Southern District of Georgia.	US District Court Judge	6/12/2006		9/12/2006	9/29/2006 Voice Vote		12/9/2006	
Wright, II, Otis D	CA	Returned	Central District of California.	US District Court Judge	9/5/2006					12/9/2006	
Wu, George H	CA	Returned	Central District of California.	US District Court Judge	9/5/2006					12/9/2006	
Zouhary, Jack	OH	Confirmed	Northern District of Ohio	US District Court Judge	12/14/2005		2/15/2006	3/2/2006 Voice Vote	3/16/2006 96–0		

EXECUTIVE NOMINATIONS

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Acosta, R. Alexander	FL	Confirmed	Southern District of Florida.	US Attorney	6/9/2006		NA	7/27/2006 Voice Vote	8/3/2006		
Aguigui, Earl C	GU	Returned	District of Northern Mariana Islands and Guam.	US Marshal	2/14/2005					12/9/2006	

EXECUTIVE NOMINATIONS—Continued

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
Anderson, Thomas D	VT	Confirmed	District of Vermont	US Attorney	5/11/2006		NA	6/15/2006 Voice Vote	6/22/2006 Voice Vote		
Barnett, Thomas O	VA	Confirmed	Department of Justice	Assistant Attorney General.	9/6/2005		10/6/2005	11/3/2005 Voice Vote	2/10/2006 Voice Vote		
Bradbury, Steven G	MD	Returned	Department of Justice	Assistant Attorney General.	11/14/2006	6/23/2005	10/6/2005			12/9/2006	
					1/25/2006			7/27/2006 Voice Vote		9/29/2006	
								11/3/2005 Voice Vote		12/22/2005	
Brand, Rachel	IA	Confirmed	Department of Justice	Assistant Attorney General.	4/4/2005		5/12/2006	6/16/2005 Voice Vote	7/28/2005 Voice Vote		
Clark, John F	VA	Confirmed	United States Marshal Service.	Director, US Marshal Service.	3/31/2006		2/15/2006	3/16/2006 Voice Vote	3/16/2006 Voice Vote		
Clement, Paul D	VA	Confirmed	Department of Justice	Solicitor General	3/14/2005		4/27/2005	5/26/2005 Voice Vote	6/8/2005 Voice Vote		
DeGabrielle, Jr., Donald J	TX	Confirmed	Southern District of Texas.	US Attorney	2/13/2006		NA	3/9/2006 Voice Vote	3/13/2006 Voice Vote		
Dinkins, Carol E	TX	Confirmed	Executive Office of the President.	Chairman, Privacy and Civil Liberties Oversight Board.	9/28/2005		11/8/2005	2/16/2006 Voice Vote	2/17/2006 Voice Vote		
Eid, Troy A	CO	Confirmed	District of Colorado	US Attorney	6/9/2006		NA	8/3/2006 Voice Vote	8/3/2006 Voice Vote		
Fisher, Alice S	VA	Confirmed	Department of Justice	Assistant Attorney General.	9/20/2006	4/4/2006	5/12/2005	6/16/2005 Voice Vote	9/19/2006 61–35		
Flanigan, Timothy Elliott	VA	Withdrawn.	Department of Justice	Deputy Attorney General	6/20/2005		7/18/2005				10/7/2005
Flynn, Terrance P	NY	Confirmed	Western District of New York.	US Attorney	12/16/2005		NA	3/2/2006 Voice Vote	3/13/2006 Voice Vote		
Freeman, Sharee M	VA	Confirmed	Department of Justice	Director, Community Relations Service.	12/20/2005		3/14/2006	3/30/2006 Voice Vote	3/31/2006 Voice Vote		
Friedrich, Dabney Langhorne.	VA	Returned	United States Sentencing Commission.	Commissioner	8/2/2006					12/9/2006	
Garcia, Michael J	NY	Confirmed	Southern District of New York.	US Attorney	6/30/2005		NA	7/28/2005 Voice Vote	7/30/2005 Voice Vote		

Gonzales, Alberto	TX	Confirmed	Department of Justice	Attorney General	1/4/2005	11/16/2004	1/6/2005	1/26/2005 10–8	2/3/2005 60–36	12/8/2004	
Gonzalez, Emilio T	FL	Confirmed	Department of Homeland Security.	Director, Bureau of Citizenship and Immigration Services.	9/6/2006		10/18/2005	11/17/2005 Voice Vote	12/21/2005 Voice Vote		
Green, Phillip J	IL	Returned	Southern District of Illinois.	US Attorney	6/9/2006		NA			12/9/2006	
Hackman, John Roberts	VA	Returned	Eastern District of Virginia.	US Marshal	9/29/2006					12/9/2006	
Hanaway, Catherine Lucille.	MO	Confirmed	Eastern District of Missouri.	US Attorney	4/29/2005		NA	11/17/2005 Voice Vote	12/17/2005 Voice Vote		
Heaton, Rodger A	IL	Confirmed	Central District of Illinois	US Attorney	7/28/2006		NA	9/21/2006 Voice Vote	9/29/2006 Voice Vote		
Holding, George E.B	NC	Confirmed	Eastern District of North Carolina.	US Attorney	6/9/2006		NA	9/7/2006 Voice Vote	9/13/2006 Voice Vote		
Jackley, Martin J	SD	Confirmed	District of South Dakota	US Attorney	5/18/2006		NA	7/13/2006 Voice Vote	7/21/2006 Voice Vote		
Jenkins, Anthony Jerome	VI	Confirmed	District of the Virgin Islands.	US Attorney	2/17/2005		NA	5/26/2005 Voice Vote	6/8/2005 Voice Vote		
Junker, Timothy Anthony	IA	Confirmed	Northern District of Iowa	US Marshal	2/27/2006		NA	4/27/2006 Voice Vote	5/12/2006 Voice Vote		
Kim, Wan J	MD	Confirmed	Department of Justice, Civil Rights Division.	Assistant Attorney General.	6/16/2005		10/6/2005	11/3/2005 Voice Vote	11/4/2005 Voice Vote		
King, Stephen S	NY	Confirmed	Department of Justice	Member, Foreign Claims Settlement Commission.	11/10/2005		NA	2/16/2006 Voice Vote	2/17/2006 Voice Vote		
Kustoff, David F	TN	Confirmed	Western District of Tennessee.	US Attorney	2/17/2006		NA	3/16/2006 Voice Vote	3/16/2006 Voice Vote		
Letten, James B	LA	Confirmed	Eastern District of Louisiana.	US Attorney	5/13/2005		NA	6/30/2005 Voice Vote	7/1/2005 Voice Vote		
Lloyd, Reginald I	SC	Confirmed	District of South Carolina	US Attorney	12/16/2005		NA	2/16/2006 Voice Vote	2/17/2006 Voice Vote		
McNulty, Paul J	VA	Confirmed	Department of Justice	Deputy Attorney General	11/9/2005		2/2/2006	2/16/2006 Voice Vote	3/16/2006 Voice Vote		
Mercer, William W	MT	Returned	Department of Justice	Associate Attorney General.	9/5/2006					12/9/2006	
Murphy, III, Stephen Joseph.	MI	Confirmed	Eastern District of Michigan.	US Attorney	2/17/2005		NA	5/26/2005 Voice Vote	6/8/2005 Voice Vote		
Myers, Julie L	KS	Floor	Department of Homeland Security.	Secretary of Homeland Security.	2/10/2006 10/7/2005		10/18/2005	11/7/2005 Voice Vote		12/9/2006	

EXECUTIVE NOMINATIONS—Continued

Name	State	Status	Office	Title	Nom date	Prior nom	Hearing	Reported out	Confirmed	Returned	Withdrawn
O'Gara, James F.X	PA	Returned	Office of National Drug Control Policy.	Deputy Director for Supply Reduction.	9/5/2006	7/28/2006	10/18/2005			12/9/2006	
										8/3/2006	
Orton, Gary D	NV	Confirmed	District of Nevada	US Marshal	3/31/2006		NA	5/25/2006 Voice Vote	5/26/2006 Voice Vote		
Paulose, Rachel K	MN	Confirmed	District of Minnesota	US Attorney	8/2/2006		NA	12/9/2006 Discharged by UC	12/9/2006 Voice Vote		
Peterson, Erik C	WI	Confirmed	Western District of Wisconsin.	US Attorney	4/24/2006		NA	5/25/2006 Voice Vote	5/26/2006 Voice Vote		
Potter, Sharon Lynn	WV	Confirmed	Northern District of West Virginia.	US Attorney	6/9/2006		NA	9/29/2006 Voice Vote	9/29/2006 Voice Vote		
Raul, Charles Alan	DC	Confirmed	Executive Office of the President.	Vice Chairman, Privacy and Civil Liberties Oversight Board.	9/28/2005		11/8/2005	2/16/2006 Voice Vote	2/17/2006 Voice Vote		
Rhodes, Deborah Jean Johnson.	AL	Confirmed	Southern District of Alabama.	US Attorney	7/28/2006		NA	9/29/2006 Voice Vote	9/29/2006 Voice Vote		
Richter, John Charles	OK	Confirmed	Western District of Oklahoma.	US Attorney	2/17/2006		NA	3/9/2006 Voice Vote	3/13/2006 Voice Vote		
Rivkin, David B	VA	Returned	Foreign Claims Settlement Commission.	Member	1/24/2005					12/9/2006	
Rosenberg, Charles P	VA	Confirmed	Eastern District of Virginia.	US Attorney	5/4/2006		NA	6/8/2006 Voice Vote	6/13/2006 Voice Vote		
Rosenstein, Rod J	MD	Confirmed	District of Maryland	US Attorney	5/24/2005		NA	6/30/2005 Voice Vote	7/1/2005 Voice Vote		
Schofield, Regina B	VA	Confirmed	Department of Justice	Assistant Attorney General.	4/4/2005		5/12/2005	5/26/2005 Voice Vote	6/8/2005 Voice Vote		
Sedgwick, Jeffrey L	MA	Confirmed	Department of Justice	Director, Bureau of Justice Statistics.	1/31/2006		3/14/2006	3/30/2006 Voice Vote	3/31/2006 Voice Vote		
Shappert, Gretchen C.F	NC	Confirmed	Western District of North Carolina.	US Attorney	2/14/2005		NA	5/26/2005 Voice Vote	6/8/2005 Voice Vote		
Smith, Sr., Patrick Carroll	NC	Confirmed	Western District of North Carolina.	US Marshal	2/27/2006		NA	4/27/2006 Voice Vote	5/12/2006 Voice Vote		
Swaim, Peter Manson	IN	Confirmed	Southern District of Indiana.	US Marshal	6/23/2005		NA	7/28/2005	7/29/2005 Voice Vote		

Sweeney, Margaret Mary	VA	Confirmed	US Court of Federal Claims.	US Court of Federal Claims Judge.	6/14/2005	.....	9/29/2005	10/20/2005 Voice Vote	10/21/2005 Voice Vote	.....	.....
Tamargo, Mauricio J	FL	Confirmed	Department of Justice	Chairman, Foreign Claims Settlement Commission.	2/6/2006	.....	NA	3/9/2006 Voice Vote	3/13/2006 Voice Vote	.....	.....
Thapar, Annul R	KY	Confirmed	Eastern District of Kentucky.	US Attorney	2/17/2006	.....	NA	3/9/2006 Voice Vote	3/13/2006 Voice Vote	.....	.....
Tolman, Brett L	UT	Confirmed	District of Utah	US Attorney	6/9/2006	.....	NA	7/13/2006 Voice Vote	7/21/2006 Voice Vote	.....	.....
Tydingco-Gatewood, Frances Marie.	Guam	Confirmed	District of Guam	Judge for District Court of Guam.	4/25/2006	.....	7/11/2006	8/3/2006 Voice Vote	8/3/2006 Voice Vote	.....	.....
Wainstein, Kenneth L	VA	Confirmed	Department of Justice	Assistant Attorney General.	3/13/2006	.....	5/2/2006	6/15/2006 Voice Vote	9/21/2006 Voice Vote	.....	.....
Wainstein, Kenneth L.	VA	Confirmed	District of Columbia	US Attorney	6/8/2005	.....	NA	9/8/2005 Voice Vote	10/7/2005 Voice Vote	.....	.....
Wheeler, Thomas Craig ...	MD	Confirmed	US Court of Federal Claims.	US Court of Federal Claims Judge.	6/14/2005	.....	9/29/2005	10/20/2005 Voice Vote	10/21/2005 Voice Vote	.....	.....
Wooldridge, Sue Ellen	VA	Confirmed	Department of Justice	Assistant Attorney General.	6/20/2005	.....	10/6/2005	11/3/2005 Voice Vote	11/10/2005 Voice Vote	.....	.....

VI. SUMMARY MATERIALS REGARDING COMMITTEE ACTIVITIES

A. STATISTICAL OVERVIEW

Referred to Committee:	
Bills referred to Committee (S. and H.R.)	420
Resolutions referred to Committee	182
Joint Resolutions	19
Concurrent Resolutions	46
Resolutions	117
Nominations referred to Committee	177
Hearing Tally:	
Total number of Judiciary Committee Hearings	164
Full Committee Hearings (Includes 5 field hearings)	116
Subcommittee Hearings	48
Hearing Breakdown by Subcommittee:	
Constitution, Civil Rights and Property Rights	10
Administrative Oversight and the Courts	5
Antitrust, Competition Policy and Consumer Rights	4
Crime and Drugs	2
Immigration, Border Security and Citizenship	9
Intellectual Property	4
Terrorism, Technology and Homeland Security	6
Corrections and Rehabilitation	1
Joint Hearings: Immigration, Border Security and Citizenship joined with Terrorism Technology and Homeland Security	3
Markup Tally:	
Full Committee Executive Business Meetings: No Quorum reached at 15	62
Subcommittee Executive Business Meetings	2
Reported out of Committee:	
Bills reported by Committee	43
Nominations reported by Committee	124
Floor Action:	
Days on Floor:[1] Legislation and Nominations under Committee Jurisdiction	107
Days in Session	296
Percentage	36.1
Legislation Receiving Floor Consideration	19
Days of Legislation on Floor	65
Nominations Receiving Floor Consideration	44
Days of Nominations on Floor	51
Nominations Confirmed	104
Bills Signed into Law[2]	22
Bills Passed by Congress Pending President's Signature	7
Bills Passed by Senate[3]	47
Resolutions Passed by Senate	71

[1] This number reflects the days in which Senators made substantial statements, formally debated, or voted on a pending issue under the jurisdiction of the Senate Judiciary Committee.

[2] This number reflects laws passed that formally went through the Senate Judiciary Committee and laws passed that included language adopted from legislation handled by the Senate Judiciary Committee.

[3] This number reflects passage of legislation handled by the Senate Judiciary Committee, including larger omnibus legislation that incorporates Judiciary Committee language. In a few instances legislation passed independently, and then passed a second time as part of a larger legislative package this count includes each time legislation was passed.

B. HEARINGS OF THE 109TH CONGRESS

January 2005:	
Executive Nomination—Full Committee	1/6/2005
The Fairness in Asbestos Injury Resolution Act—Full Committee	1/11/2005
Judicial Nominations—Full Committee	1/26/2005
February 2005:	
Asbestos: Mixed Dust and FELA Issues—Full Committee	2/2/2005
Bankruptcy Reform—Full Committee	2/10/2005
March 2005:	
Judicial Nominations—Full Committee	3/1/2005

Judicial Nominations—Full Committee	3/8/2005
Terrorism and the EMP Threat to Homeland Security—Terrorism, Technology and Homeland Security	3/8/2005
Strengthening Enforcement and Border Security: The 9/11 Commission Staff Report on Terrorist Travel—Immigration, Border Security and Citizenship	3/14/2005
SBC/ATT and Verizon/MCI Mergers—Remaking the Telecommunications Industry—Full Committee	3/15/2005
Openness in Government and Freedom of Information: Examining the OPEN Government Act of 2005—Terrorism, Technology and Homeland Security	3/15/2005
Obscenity Prosecution and the Constitution—Constitution, Civil Rights and Property Rights	3/16/2005
April 2005:	
Oversight of the USA PATRIOT Act—Full Committee	4/5/2005
Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use—Full Committee	4/13/2005
Less Faith in Judicial Credit: Are Federal and State Marriage Protection Initiatives Vulnerable to Judicial Activism?—Constitution, Civil Rights and Property Rights	4/13/2005
Strengthening Interior Enforcement: Deportation and Related Issues—Immigration, Border Security and Citizenship	4/14/2005
SBC/ATT and Verizon/MCI Mergers: Remaking the Telecommunications Industry, Part II—Another View—Antitrust, Competition Policy and Consumer Rights	4/19/2005
A Review of the Material Support to Terrorism Prohibition—Terrorism, Technology and Homeland Security	4/20/2005
Perspectives on Patents—Intellectual Property	4/25/2005
A Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos, and for Other Purposes—Full Committee	4/26/2005
Executive Nominations—Full Committee	4/27/2005
Strengthening Border Security Between Ports of Entry: The Use of Technology to Protect the Borders Immigration, Border Security and Citizenship —Terrorism, Technology and Homeland Security	4/28/2005
May 2005:	
Continued Oversight of the USA PATRIOT Act—Full Committee	5/10/2005
Executive Nominations—Full Committee	5/12/2005
The Need for Comprehensive Immigration Reform: Strengthening Our National Security—Immigration, Border Security and Citizenship	5/17/2005
Protecting the Judiciary at Home and in the Courthouse—Full Committee	5/18/2005
The National Consensus to Protect Marriage: Why a Constitutional Amendment is Needed—Constitution, Civil Rights and Property Rights	5/19/2005
Piracy of Intellectual Property—Intellectual Property	5/25/2005
The Need for Comprehensive Immigration Reform Serving Our National Economy—Immigration, Border Security and Citizenship	5/26/2005
June 2005:	
The Southern Border Crisis: Resources and Strategies to Improve National Security Immigration, Border Security and Citizenship—Terrorism, Technology and Homeland Security	6/7/2005
Prevention of Youth and Gang Violence—Full Committee	6/13/2005
Patent Law Reform: Injunctions and Damages—Intellectual Property	6/14/2005
Detainees—Full Committee	6/15/2005
The Consequences of Roe v. Wade and Doe v. Bolton—Constitution, Civil Rights and Property Rights	6/23/2005
The Need for Comprehensive Immigration Reform: Securing the Cooperation of Participating Countries—Immigration, Border Security and Citizenship	6/30/2005
July 2005:	
Music Licensing Reform—Intellectual Property	7/12/2005
Habeas Corpus Proceedings and Issues of Actual Innocence—Full Committee	7/13/2005
Reauthorization of the Violence Against Women Act—Full Committee	7/19/2005
A Review of Federal Consent Decrees—Administrative Oversight and the Courts	7/19/2005
Reporters' Shield Legislation: Issues and Implications—Full Committee	7/20/2005
Perspectives on Patents: Harmonization and Other Matters—Full Committee	7/26/2005
Comprehensive Immigration Reform—Full Committee	7/26/2005
Executive Nomination—Full Committee	7/26/2005
FBI Oversight—Full Committee	7/27/2005
September 2005:	
Nomination of John G. Roberts—Full Committee	9/12/2005
The Kelo Decision: Investigation Takings of Homes and other Private Property—Full Committee	9/20/2005
Able Danger and Intelligence Information Sharing—Full Committee	9/21/2005
Protecting Copy Right and Innovation in Post-Grokster World—Full Committee	9/28/2005
Judicial Nominations—Full Committee	9/29/2005
October 2005:	
Executive Nominations—Full Committee	10/6/2005
Comprehensive Immigration Reform II—Full Committee	10/18/2005
Executive Nominations—Full Committee	10/18/2005
Video Competition in 2005—More Consolidation, or New Choices for Consumer?—Antitrust, Competition Policy and Consumer Rights	10/19/2005

Reporters' Privilege Legislation: An Additional Investigation of Issues and Implications—Full Committee	10/19/2005
An Examination of the Constitutional Amendment on Marriage—Full Committee	10/20/2005
Revisiting Proposals to Split the Ninth Circuit: An Inevitable Solution to a Growing Problem—Administrative Oversight and the Courts	10/26/2005
Terrorism: Emergency Preparedness—Terrorism, Technology and Homeland Security	10/26/2005
November 2005:	
Judicial Nominations—Full Committee	11/1/2005
Executive Nominations—Full Committee	11/8/2005
Saudi Arabia: Friend or Foe in the War on Terror?—Full Committee	11/8/2005
Executive Nominations—Full Committee	11/8/2005
Cameras in the Courtroom—Full Committee	11/9/2005
Why the Government Should Care about Pornography—Constitution, Civil Rights and Property Rights	11/10/2005
Judicial Nominations—Full Committee	11/15/2005
Habeas Reform: The Stream Line Procedures Act—Full Committee	11/16/2005
Creating New Federal Judgeships: The Systematic or Piecemeal Approach—Administrative Oversight and the Courts	11/16/2005
Recent Developments in Assessing Future Asbestos Claims Under the FAIR Act—Full Committee	11/17/2005
December 2005:	
Proposed Western Hemisphere Passport Rules: Impact on Trade and Tourism—Immigration, Border Security and Citizenship	12/2/2005
January 2006:	
Nomination of Samuel Alito, Jr. to be Associate Justice of the Supreme Courtq—Full Committee	1/9/2006
February 2006:	
Consolidation in the Energy Industry: Raising Prices at the Pump?—Full Committee	2/1/2006
An Examination of the Death Penalty in the United States—Constitution, Civil Rights and Property Rights	2/1/2006
Executive Nomination—Full Committee	2/2/2006
Wartime Executive Power and the NSA's Surveillance Authority—Full Committee	2/6/2006
Judicial Nominations—Full Committee	2/7/2006
Judicial and Executive Nominations—Full Committee	2/15/2006
Wartime Executive Power and the NSA's Surveillance Authority II—Full Committee	2/28/2006
March 2006:	
Federal Strategies to End Border Violence—Immigration, Border Security and Citizenship Terrorism, Technology and Homeland Security	3/1/2006
Judicial Nominations—Full Committee	3/1/2006
Defective Products: Will Criminal Penalties Ensure Corporate Accountability?—Full Committee	3/10/2006
Judicial and Executive Nominations—Full Committee	3/14/2006
Consolidation in the Oil and Gas Industry: Raising Prices?—Full Committee	3/14/2006
Hospital Group Purchasing: Are the Industry's Reforms Sufficient to Ensure Competition?—Antitrust, Competition Policy and Consumer Rights	3/15/2006
NSA III: Wartime Executive Powers and the FISA Court—Full Committee	3/28/2006
Judicial Nominations—Full Committee	3/29/2006
What's in a Game? State Regulation of Violent Video Games and the First Amendment—Constitution, Civil Rights and Property Rights	3/29/2006
An Examination of the Call to Censure the President—Full Committee	3/31/2006
April 2006:	
Immigration Litigation Reduction—Full Committee	4/3/2006
Orphan Works: Proposals for a Legislative Solution—Full Committee	4/6/2006
Judicial Nominations—Full Committee	4/25/2006
Immigration: Economic Impacts—Full Committee	4/25/2006
Parity, Platforms, and Protection: The Future of the Music Industry in the Digital Radio Revolution—Full Committee	4/26/2006
Renewing the Temporary Provisions of the Voting Rights Act: An Introduction to the Evidence—Full Committee	4/27/2006
May 2006:	
FBI Oversight—Full Committee	5/2/2006
Judicial and Executive Nominations—Full Committee	5/2/2006
An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization—Full Committee	5/9/2006
Judicial Nominations—Full Committee	5/9/2006
Modern Enforcement of the Voting Rights Act—Full Committee	5/10/2006
The Continuing Need for Section 5 Pre-Clearance—Full Committee	5/16/2006
Understanding the Benefits and Costs of Section 5 Pre-Clearance—Full Committee	5/17/2006
Campus Crime: Compliance and Enforcement under the Clery Act—Full Committee	5/19/2006
Perspectives on Patents: Post-Grant Review Procedures and Other Litigation Reforms—Full Committee	5/23/2006
Judicial Nominations—Full Committee	5/24/2006

The Consequences of Legalized Assisted Suicide and Euthanasia—Constitution, Civil Rights and Property Rights 5/25/2006

June 2006:

Examining DOJ's Investigation of Journalists Who Publish Classified Information—Lessons from the Jack Anderson Case; Full Committee 6/6/2006

S. 3274: The Fairness in Asbestos Injury Resolution Act of 2006—Full Committee 6/7/2006

The Findings and Recommendations of the Commission on Safety and Abuse in America's Prisons—Corrections and Rehabilitation 6/8/2006

Continuing Need for Section's 203 Provisions for Limited English Proficient Voters—Full Committee 6/13/2006

Reconsidering Our Communications Laws: Ensuring Competition and Innovation—Full Committee 6/14/2006

Judicial Nominations—Full Committee 6/15/2006

Immigration Enforcement at the Workplace Learning from the Mistakes of 1986—Immigration, Border Security and Citizenship 6/19/2006

The McCarran-Ferguson Act: Implications of Repealing the Insurers' Antitrust Exemption—Full Committee 6/20/2006

Reauthorization of the Voting Rights Act: Policy Perspectives and Views from the Field—Full Committee 6/21/2006

Judicial Nominations—Full Committee 6/21/2006

The Analog Hole: Can Congress Protect Copyright and Promote Innovation?—Full Committee 6/21/2006

AT&T and BellSouth Merger: What Does it Mean for Consumers?—Antitrust, Competition Policy and Consumer Rights 6/22/2006

Presidential Signing Statements—Full Committee 6/27/2006

Judicial Nominations—Full Committee 6/28/2006

Hedge Funds and Independent Analysts: How Independent are Their Relationships?—Full Committee 6/28/2006

The Multidistrict Litigation Restoration Act—Administrative Oversight and the Courts 6/29/2006

July 2006:

Comprehensive Immigration Reform: Examining the Need for a Guest Worker Program—Full Committee 7/5/2006

Hamdan v. Rumsfeld: Establishing a Constitutional Process—Full Committee 7/11/2006

Judicial Nominations—Full Committee 7/11/2006

Examining the Need for Comprehensive Immigration Reform, Part II—Full Committee 7/12/2006

Renewing the Temporary Provisions of the Voting Rights Act: Legislative Options after LULAC v. Perry—Constitution, Civil Rights and Property Rights 7/13/2006

Department of Justice Oversight—Full Committee 7/18/2006

Credit Card Interchange Rates: Antitrust Concerns?—Full Committee 7/19/2006

FISA for the 21st Century—Full Committee 7/26/2006

Detecting Smuggled Nuclear Weapons—Terrorism, Technology and Homeland Security 7/27/2006

August 2006:

Judicial Nominations—Full Committee 8/1/2006

Paying Your Own Way: Creating a Fair Standard for Attorney's Fee Awards in Establishment Clause Cases—Constitution, Civil Rights and Property Rights 8/2/2006

The Authority to Prosecute Terrorists Under the War Crimes Provisions of Title 18—Full Committee 8/2/2006

U.S. Visa Policy: Competition for International Scholars, Scientists and Skilled Workers—Immigration, Border Security and Citizenship 8/31/2006

September 2006:

Examining Competition in Group Health Care—Full Committee 9/6/2006

Judicial Nominations—Full Committee 9/6/2006

Keeping Terrorists Off the Plane: Strategies for Pre-Screening International Passengers Before Take-off—Terrorism, Technology and Homeland Security 9/7/2006

The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations—Full Committee 9/12/2006

Judicial Nominations—Full Committee 9/12/2006

Challenges Facing Today's Federal Prosecutors—Crime and Drugs 9/13/2006

Judicial Nominations—Full Committee 9/19/2006

The Cost of Crime: Understanding the Financial and Human Impact of Criminal Activity—Full Committee 9/19/2006

Examining the Proposal to Restructure the Ninth Circuit—Full Committee 9/20/2006

Reporters' Privilege Legislation: Preserving Effective Federal Law Enforcement—Full Committee 9/20/2006

Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States—Crime and Drugs 9/21/2006

Fighting Crime: The Challenges Facing Local Law Enforcement and the Federal Role—Full Committee 9/22/2006

Examining Proposals to Limit Guantanamo Detainees' Access to Habeas Corpus Review—Full Committee 9/25/2006

Illegal Insider Trading: How Widespread is the Problem and is there Ad—Full Committee 9/26/2006

Judicial Nominations—Full Committee 9/26/2006

Oversight Hearing: U.S. Refugee Admissions and Policy—Immigration, Border Security and Citizenship 9/27/2006

November 2006:

Judicial Nomination—Full Committee 11/14/2006

Competition in Sports Programming and Broadcasting: Are Consumers Winning—Full Committee	11/14/2006
Oversight of the Civil Rights Division—Full Committee	11/16/2006
December 2006:	
Examining Enforcement of Criminal Insider Trading and Hedge Fund Activity—Full Committee	12/5/2006
Oversight of the Implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act—Administrative Oversight and the Courts	12/6/2006
FBI Oversight—Full Committee	12/6/2006
Vertically Integrated Sports Programming: Are Cable Companies Excluding Competition?—Full Committee	12/7/2006

C. EXECUTIVE BUSINESS MEETINGS WITH AGENDAS

FIRST SESSION

January 19, 2005

I. Nominations

Alberto Gonzales to be the Attorney General of the United States

January 26, 2005

I. Nominations

Alberto Gonzales to be the Attorney General of the United States

II. Legislation

S. 5, Class Action Fairness Act of 2005 [Grassley, Feinstein, Hatch, Kohl, Kyl, Schumer, Sessions]

February 3, 2005

I. Committee Business

Committee Funding Resolution

II. Legislation

S. 5, Class Action Fairness Act of 2005 [Grassley, Feinstein, Hatch, Kohl, Kyl, Schumer, Sessions]

S. 256, A bill to Amend Title 11 of the United States Code, and for Other Purposes Act of 2005 [Grassley, Hatch, Sessions]

February 17, 2005

I. Legislation

S. 256, A bill to Amend Title 11 of the United States Code, and for Other Purposes Act of 2005 [Grassley, Hatch, Sessions]

March 10, 2005

I. Nominations

William G. Myers, III to be U.S. Circuit Judge for the Ninth Circuit

March 17, 2005

I. Nominations

William G. Myers, III to be U.S. Circuit Judge for the Ninth Circuit

Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit

Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina

James C. Dever, III to be U.S. District Judge for the Eastern District of North Carolina

Paul A. Crotty to be U.S. District Judge for the Southern District of New York

J. Michael Seabright to be U.S. District Judge for the District of Hawaii

II. Bills

Asbestos

S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005 [Biden, Specter, Feinstein, Kyl, Cornyn]

S. 188, State Criminal Alien Assistance Program Reauthorization Act of 2005 [Feinstein, Kyl, Schumer, Cornyn, Durbin, Specter]

S. 119, Unaccompanied Alien Child Protection Act of 2005 [Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter]

S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays [Cornyn, Leahy, Grassley]

III. Committee Business

Subcommittee Approval

April 7, 2005

I. Nominations

Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit

Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina

James C. Dever, III to be U.S. District Judge for the Eastern District of North Carolina

II. Bills

S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005 [Biden, Specter, Feinstein, Kyl, Cornyn]

S. 119, Unaccompanied Alien Child Protection Act of 2005 [Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter, Leahy]

S. 629, Railroad Carriers and Mass Transportation Act of 2005 [Sessions, Kyl]

III. Matters

Asbestos

April 14, 2005

I. Nominations

Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit

Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit

Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina

James C. Dever, III to be U.S. District Judge for the Eastern District of North Carolina

II. Bills

S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005 [Biden, Specter, Feinstein, Kyl, Cornyn]

S. 119, Unaccompanied Alien Child Protection Act of 2005 [Feinstein, Schumer, Durbin, DeWine, Feingold, Kennedy, Brownback, Specter, Kohl, Leahy]

S. 629, Railroad Carriers and Mass Transportation Act of 2005 [Sessions, Kyl]

S. 555, No Oil Producing and Exporting Cartels Act of 2005 [DeWine, Kohl, Leahy, Grassley, Feingold, Schumer, Durbin, Specter]

III. Matters

Asbestos

April 21, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit

Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit

William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit.

II. Bills

S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005 [Biden, Specter, Feinstein, Kyl, Cornyn, Hatch]

S. 629, Railroad Carriers and Mass Transportation Act of 2005 [Sessions, Kyl, Hatch]

S. 339, Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005 [Reid, Hatch, Kyl]

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine]

III. Matters

Senate Judiciary Committee Rules

April 28, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit

Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia

II. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure,

and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine]

III. Matters

Senate Judiciary Committee Rules

May 11, 2005.

I. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine, Graham]

May 12, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit.

Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia

II. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine, Graham]

III. Matters

Senate Judiciary Committee Rules

May 19, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia

Paul Clement to be Solicitor General of the United States

Stephen Joseph Murphy III to be U.S. Attorney for the Eastern District of Michigan

Anthony Jerome Jenkins to be U.S. Attorney for the District of the Virgin Islands

Gretchen C.F. Shappert to be U.S. Attorney for the Western District of North Carolina

II. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine, Graham]

III. Matters

Senate Judiciary Committee Rules

May 25, 2005

I. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine, Graham]

May 26, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia

Richard Griffin to be U.S. Circuit Court Judge for the Sixth Circuit

David McKeague to be U.S. Circuit Court Judge for the Sixth Circuit

Paul Clement to be Solicitor General of the United States

Anthony Jerome Jenkins to be U.S. Attorney for the District of the Virgin Islands

Stephen Joseph Murphy III to be U.S. Attorney for the Eastern District of Michigan

Gretchen C.F. Shappert to be U.S. Attorney for the Western District of North Carolina

Rachel Brand to be an Assistant Attorney General for the Office of Legal Policy

Alice S. Fisher to be an Assistant Attorney General for the Criminal Division

Regina B. Schofield to be an Assistant Attorney General for the Office of Justice Programs

II. Bills

S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes. [Specter, Leahy, Hatch, Feinstein, Grassley, DeWine, Graham]

III. Matters

Senate Judiciary Committee Rules

June 9, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Brett M. Kavanaugh to be U.S. Circuit Judge for the District of Columbia

Rachel Brand to be an Assistant Attorney General for the Office of Legal Policy

Alice S. Fisher to be an Assistant Attorney General for the Criminal Division

II. Bills

S. 491, Christopher Kangas Fallen Firefighter Apprentice Act [Specter, Leahy]

S. 1181, Which is Section 8 of Openness Promotes Effectiveness in our National Government Act of 2005 [Cornyn, Leahy, Feingold]

III. Matters

Senate Judiciary Committee Rules

June 16, 2005

I. Nominations

Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit

Rachel Brand to be an Assistant Attorney General for the Office of Legal Policy

Alice S. Fisher to be an Assistant Attorney General for the Criminal Division

II. Bills

S. 491, Christopher Kangas Fallen Firefighter Apprentice Act [Specter, Leahy]

III. Matters

Senate Judiciary Committee Rules

June 23, 2005

I. Nominations

James B. Letten to be U.S. Attorney for the Eastern District of Louisiana

Rod J. Rosenstein to be U.S. Attorney for the District of Maryland

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 751, Notification of Risk to Personal Data Act [Feinstein]

II. Matters

Senate Judiciary Committee Rules

June 30, 2005

I. Nominations

James B. Letten to be U.S. Attorney for the Eastern District of Louisiana

Rod J. Rosenstein to be U.S. Attorney for the District of Maryland

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley]

S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy]

S. 751, Notification of Risk to Personal Data Act [Feinstein]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 103, Combat Meth Act of 2005 [Talent, Feinstein, Kohl]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden]

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

II. Matters

Senate Judiciary Committee Rules

Discussion of Subpoena for Asbestos

July 14, 2005

I. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 103, Combat Meth Act of 2005 [Talent, Feinstein, Kohl, Schumer]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

S. ———, To reauthorize and improve the USA PATRIOT Act [Specter, Feinstein, Kyl]

II. Matters

Senate Judiciary Committee Rules

July 21, 2005

I. Bills

S. 1389, To reauthorize and improve the USA PATRIOT Act [Specter, Feinstein, Kyl]

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 103, Combat Meth Act of 2005 [Talent, Feinstein, Kohl, Schumer, Feingold]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

S. 1197, Violence Against Women Act of 2005 [Biden, Hatch, Specter, Leahy, DeWine, Kohl, Grassley, Kennedy, Schumer, Durbin, Feinstein]

July 28, 2005

I. Nominations

Michael J. Garcia to U.S. Attorney for the Southern District of New York

Peter Swaim to U.S. Marshall for the Southern District of Indiana

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 103, Combat Meth Act of 2005 [Talent, Feinstein, Kohl, Schumer, Feingold]

S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

S. 1197, Violence Against Women Act of 2005 [Biden, Hatch, Specter, Leahy, DeWine, Kohl, Grassley, Kennedy, Schumer, Durbin, Feinstein]

III. Matters

Asbestos Subpoenas

September 8, 2005

I. Nominations

Kenneth L. Wainstein to be United States Attorney for the District of Columbia

Timothy Flanigan to be Deputy Attorney General

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1197, Violence Against Women Act of 2005 [Biden, Hatch, Specter, Leahy, DeWine, Kohl, Grassley, Kennedy, Schumer, Durbin, Feinstein]

S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]

S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

III. Matters

Asbestos Subpoenas

September 22, 2005

I. Nominations

John G. Roberts to be Chief Justice of the United States
Timothy Flanigan to be Deputy Attorney General

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]
S. ———, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feingold]
S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]
S. 1326, Notification of Risk to Personal Data Act [Sessions]
S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]
S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]
S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

September 29, 2005

I. Nominations

Timothy Flanigan to be Deputy Attorney General
Susan Neilson to be U.S. Circuit Judge for the Sixth Circuit

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]
S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]
S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]
S. 1326, Notification of Risk to Personal Data Act [Sessions]
S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]
S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]
S. 1699, Stop Counterfeiting in Manufactured Goods Act [Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold]
S. 1095, Protecting American Goods and Services Act of 2005 [Cornyn, Leahy]
H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]
S. 443, Antitrust Criminal Investigative Improvements Act of 2005 [DeWine, Kohl, Leahy]
S. 1787, Bankruptcy Relief for victims of Natural Disasters [Vitter]
S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005 [Feingold, Leahy, Durbin, Kennedy, Feinstein]

October 6, 2005

I. Nominations

Timothy Flanigan to be Deputy Attorney General
Susan Neilson to be U.S. Circuit Judge for the Sixth Circuit

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]
S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]
S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]
S. 1326, Notification of Risk to Personal Data Act [Sessions]
S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer]
S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]
S. 1699, Stop Counterfeiting in Manufactured Goods Act [Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold]
S. 1095, Protecting American Goods and Services Act of 2005 [Cornyn, Leahy]
H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]
S. 443, Antitrust Criminal Investigative Improvements Act of 2005 [DeWine, Kohl, Leahy]
S. 1787, Relief to Victims of Hurricane Katrina and Other Natural Disasters Act of 2005 [Vitter, Grassley, Cornyn, DeWine]
S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005 [Feingold, Leahy, Durbin, Kennedy, Feinstein]
S. ————, Budget Reconciliation [Chairman's Mark]

October 20, 2005

I. Nominations

Susan Neilson to be U.S. Circuit Judge for the Sixth Circuit
John Richard Smoak to be U.S. District Judge for the Northern District of Florida
Brian Edward Sandoval to be U.S. District Judge for the District of Nevada
Harry Sandlin Mattice, Jr. to be U.S. District Judge for the Eastern District of Tennessee
Margaret Mary Sweeney to be a Judge of the United States Court of Federal Claims
Thomas Craig Wheeler to be a Judge of the United States Court of Federal Claims
Wan Kim to be an Assistant Attorney General, Civil Rights Division
Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel
Sue Ellen Wooldridge to be an Assistant Attorney General, Environment and Natural Resources Division
Thomas O. Barnett to be an Assistant Attorney General, Antitrust Division

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1326, Notification of Risk to Personal Data Act [Sessions]

S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses [Hatch, Biden, Schumer, DeWine, Kyl, Grassley] S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005 [Grassley, Kyl, Cornyn]

S. 1699, Stop Counterfeiting in Manufactured Goods Act [Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold, Durbin]

S. 1095, Protecting American Goods and Services Act of 2005 [Cornyn, Leahy]

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 443, Antitrust Criminal Investigative Improvements Act of 2005 [DeWine, Kohl, Leahy]

S. 1787, Relief to Victims of Hurricane Katrina and Other Natural Disasters Act of 2005 [Vitter, Grassley, Cornyn, DeWine]

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005 [Feingold, Leahy, Durbin, Kennedy, Feinstein]

S. ————, Budget Reconciliation [Chairman's Mark]

October 27, 2005

I. Nominations

Wan Kim to be an Assistant Attorney General, Civil Rights Division

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

Sue Ellen Wooldridge to be an Assistant Attorney General, Environment and Natural Resources Division

Thomas O. Barnett to be an Assistant Attorney General, Antitrust Division

James O'Gara to be Deputy Director for Supply Reduction, Office of National Drug Control Policy

Emilio Gonzalez to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1699, Stop Counterfeiting in Manufactured Goods Act [Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold, Durbin]

S. 1095, Protecting American Goods and Services Act of 2005 [Cornyn, Leahy]

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 1787, Relief to Victims of Hurricane Katrina and Other Natural Disasters Act of 2005 [Vitter, Grassley, Cornyn, DeWine]

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005 [Feingold, Leahy, Durbin, Kennedy, Feinstein]

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn]

November 3, 2005

I. Nominations

Wan Kim to be an Assistant Attorney General, Civil Rights Division

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

Sue Ellen Wooldridge to be an Assistant Attorney General, Environment and Natural Resources Division

Thomas O. Barnett to be an Assistant Attorney General, Antitrust Division

James O'Gara to be Deputy Director for Supply Reduction, Office of National Drug Control Policy

Emilio Gonzalez to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security

Julie L. Myers to be an Assistant Secretary of Homeland Security

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

S. 1699, Stop Counterfeiting in Manufactured Goods Act [Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold, Durbin, Kyl]

S. 1095, Protecting American Goods and Services Act of 2005 [Cornyn, Leahy]

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 1787, Relief to Victims of Hurricane Katrina and Other Natural Disasters Act of 2005 [Vitter, Grassley, Cornyn, DeWine]

S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005 [Feingold, Leahy, Durbin, Kennedy, Feinstein]

November 10, 2005

I. Nominations

Joseph Frank Bianco to be U.S. District Judge for the Eastern District of New York

Timothy Mark Burgess to be U.S. District Judge for the District of Alaska

Gregory F. Van Tatenhove to be U.S. District Judge for the Eastern District of Kentucky

Eric Nicholas Vitaliano to be U.S. District Judge for the Eastern District of New York

James O'Gara to be Deputy Director for Supply Reduction, Office of National Drug Control Policy

Emilio Gonzalez to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security

Catherine Lucille Hanaway to be U.S. Attorney for the Eastern District of Missouri

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 1967, A bill to amend title 18, United States Code, with respect to certain activities of the Secret Service, and for other purposes [Specter]

S. 1961, Extending the Child Safety Pilot Program Act of 2005 [Biden, Hatch, Cornyn]

S. 1354, Wartime Treatment Study Act [Feingold, Grassley, Kennedy]

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

November 17, 2005

I. Nominations

Joseph Frank Bianco to be U.S. District Judge for the Eastern District of New York

Timothy Mark Burgess to be U.S. District Judge for the District of Alaska

Gregory F. Van Tatenhove to be U.S. District Judge for the Eastern District of Kentucky

Eric Nicholas Vitaliano to be U.S. District Judge for the Eastern District of New York

James O'Gara to be Deputy Director for Supply Reduction, Office of National Drug Control Policy

Emilio Gonzalez to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security

Catherine Lucille Hanaway to be U.S. Attorney for the Eastern District of Missouri

Carol E. Dinkins to be Chairman of the Privacy and Civil Liberties Oversight Board

Alan Charles Raul to be Vice Chairman of the Privacy and Civil Liberties Oversight Board

II. Bills

S. 1088, Streamlined Procedures Act of 2005 [Kyl, Cornyn, Grassley, Hatch]

S. 1789, Personal Data Privacy and Security Act of 2005 [Specter, Leahy, Feinstein, Feingold]

S. 751, Notification of Risk to Personal Data Act [Feinstein, Kyl]

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 1967, A bill to amend title 18, United States Code, with respect to certain activities of the Secret Service, and for other purposes [Specter]

S. 1961, Extending the Child Safety Pilot Program Act of 2005 [Biden, Hatch, Cornyn]

S. 1354, Wartime Treatment Study Act [Feingold, Grassley, Kennedy]

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

SECOND SESSION

January 24, 2006

I. Nominations

Samuel A. Alito, Jr. to be an Associate Justice of the Supreme Court of the United States

February 16, 2006

I. Nominations

Timothy C. Batten, Sr. to be U.S. District Judge for the Northern District of Georgia

Thomas E. Johnston to be U.S. District Judge for the Southern District of West Virginia

Aida M. Delgado-Colon to be U.S. District Judge for the District of Puerto Rico

Leo Maury Gordon to be a Judge of the United States Court of International Trade

Carol E. Dinkins to be Chairman of the Privacy and Civil Liberties Oversight Board

Alan Charles Raul to be Vice Chairman of the Privacy and Civil Liberties Oversight Board

Paul J. McNulty to be Deputy Attorney General

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

Reginald Lloyd to be U.S. Attorney for the District of South Carolina

Stephen King to be a Member of the Foreign Claims Settlement Commission of the United States

II. Bills

H.R. 683, Trademark Dilution Revision Act of 2005 [Smith—TX]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2178, Consumer Telephone Records Protection Act of 2006 [Schumer, Specter, Cornyn, DeWine, Feinstein, Feingold, Kyl]

S. 2177, Phone Records Protection Act of 2006 [Durbin]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

March 2, 2006

I. Nominations

Jack Zouhary to be U.S. District Judge for the Northern District of Ohio

Stephen G. Larson to be U.S. District Judge for the Central District of California

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

John F. Clark to be Director of the United States Marshals Service

Terrance P. Flynn to be U.S. Attorney for the Western District of New York

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2178, Consumer Telephone Records Protection Act of 2006 [Schumer, Specter, Cornyn, DeWine, Feinstein, Feingold, Kyl, Kohl, Durbin]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

March 8, 2006

I. Nominations

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

John F. Clark to be Director of the United States Marshals Service

Donald J. DeGabrielle, Jr. to be U.S. Attorney for the Southern District of Texas

John Charles Richter to be U.S. Attorney for the Western District of Oklahoma

Amul R. Thapar to be U.S. Attorney for the Eastern District of Kentucky

Mauricio J. Tamargo to be Chairman of the Foreign Claims Settlement Commission of the United States

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

March 9, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

John F. Clark to be Director of the United States Marshals Service

Donald J. DeGabrielle, Jr. to be U.S. Attorney for the Southern District of Texas

John Charles Richter to be U.S. Attorney for the Western District of Oklahoma

Amul R. Thapar to be U.S. Attorney for the Eastern District of Kentucky

Mauricio J. Tamargo to be Chairman of the Foreign Claims Settlement Commission of the United States

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

March 15, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota

Steven G. Bradburyto be an Assistant Attorney General for the Office of Legal Counsel

John F. Clark to be Director of the United States Marshals Service

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

March 16, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

John F. Clark to be Director of the United States Marshals Service

David F. Kustoff to be United States Attorney for the Western District of Tennessee

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

S. Res. 398, A resolution relating to the censure of George W. Bush [Feingold]

March 27, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

II. Bills

S. ————, Comprehensive Immigration Reform [Chairman's Mark]

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

S. Res. 398, A resolution relating to the censure of George W. Bush [Feingold]

March 30, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Michael A. Chagares to be United States Circuit Judge for the Third Circuit

Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota

Gray Hampton Miller to be United States District Judge for the Southern District of Texas

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

Sharee M. Freeman to be Director, Community Relations Service, U.S. Department of Justice

Jeffrey L. Sedgwick to be Director of the Bureau of Justice Statistics, U.S. Department of Justice

II. Bills

S. 1768, A bill to permit the televising of Supreme Court proceedings [Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin]

S. 829, Sunshine in the Courtroom Act of 2005 [Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter]

S. 489, Federal Consent Decree Fairness Act [Alexander, Kyl, Cornyn, Graham, Hatch]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback]

S. Res. 398, A resolution relating to the censure of George W. Bush [Feingold]

April 27, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Brett Kavanaugh to be U.S. Circuit Judge for the D.C. Circuit

Michael Ryan Barrett to be United States District Judge for the Southern District of Ohio

Brian M. Cogan to be United States District Judge for the Eastern District of New York

Thomas M. Golden to be United States District Judge for the Eastern District of Pennsylvania

Timothy Anthony Junker to be United States Marshal for the Northern District of Iowa

Patrick Smith to be United States Marshal for the Western District of North Carolina

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic

surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 2557, Oil and Gas Industry Antitrust Act of 2006 [Specter, Kohl, DeWine, Leahy, Feinstein, Durbin]

S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges [Specter, Leahy, Cornyn, Feinstein, Biden]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback, DeWine]

May 4, 2006

I. Nominations

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Brett Kavanaugh to be U.S. Circuit Judge for the D.C. Circuit

Milan D. Smith, Jr. to be U.S. Circuit Judge for the Ninth Circuit

Renee Marie Bumb to be U.S. District Judge for the District of New Jersey

Noel Lawrence Hillman to be U.S. District Judge for the District of New Jersey

Peter G. Sheridan to be U.S. District Judge for the District of New Jersey

Susan Davis Wigenton to be U.S. District Judge for the District of New Jersey

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback, DeWine]

May 11, 2006

I. Nominations

Brett Kavanaugh to be U.S. Circuit Judge for the D.C. Circuit

Sean F. Cox to be U.S. District Judge for the Eastern District of Michigan

Thomas L. Ludington to be U.S. District judge for the Eastern District of Michigan

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]
S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]
S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback, DeWine]

May 18, 2006

I. Nominations

Sandra Segal Ikuta to be U.S. Circuit Judge for the Ninth Circuit
Kenneth L. Wainstein to be an Assistant Attorney General

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]
S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]
S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer]

III. Matters

S.J. Res. 1, Marriage Protection Amendment [Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback, DeWine]
S.J. Res. 12, Flag Desecration resolution [Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter]

May 25, 2006

I. Nominations

Sandra Segal Ikuta to be U.S. Circuit Judge for the Ninth Circuit
Kenneth L. Wainstein to be an Assistant Attorney General
Erik C. Peterson to be U.S. Attorney for the Western District of Wisconsin
Charles P. Rosenberg to be U.S. Attorney for the Eastern District of Virginia
Gary D. Orton to be United States Marshal for the District of Nevada

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 2039, Prosecutors and Defenders Incentive Act of 2005 [Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer, Biden]

S. 2560, Office of National Drug Control Policy Reauthorization Act of 2006 [Specter, Biden, Hatch, Grassley]

III. Matters

S.J. Res. 12, Flag Desecration resolution [Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter]

Subpoenas for Telecom Companies

June 6, 2006

I. Matters

Discussion of the possibility of subpoenas and a closed session for a Telecom/NSA Information Sharing hearing

June 8, 2006

I. Nominations

Andrew J. Guilford to be U.S. District Judge for the Central District of California

Frank D. Whitney to be U.S. District Judge for the Western District of North Carolina

Kenneth L. Wainstein to be an Assistant Attorney General

Charles P. Rosenberg to be U.S. Attorney for the Eastern District of Virginia

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden]

III. Matters

S.J. Res. 12, Flag Desecration resolution [Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter]

June 15, 2006

I. Nominations

Frank D. Whitney to be U.S. District Judge for the Western District of North Carolina

Kenneth L. Wainstein to be an Assistant Attorney General

Thomas D. Anderson to be U.S. Attorney for the District of Vermont

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act [Smith—TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

III. Matters

S.J. Res. 12, Flag Desecration resolution [Hatch, Feinstein, Brownback, Coburn, Cornyn, DeWine, Graham, Grassley, Kyl, Sessions, Specter]

Subpoenas Relating to OPR Investigation

June 22, 2006

I. Nominations

Brett L. Tolman to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act [Smith—TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 [Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]

June 29, 2006

I. Nominations

Neil M. Gorsuch to be U.S. Circuit Judge for the Tenth Circuit
Jerome A. Holmes to be U.S. Circuit Judge for the Tenth Circuit
Gustavo Antonio Gelpi to be U.S. District Judge for the District of Puerto Rico
Daniel Porter Jordan, III to be U.S. District Judge for the Southern District of Mississippi
Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel
Martin J. Jackley to be U.S. Attorney for the District of South Dakota
Brett L. Tolman to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]
S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]
S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]
S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]
H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act [Smith—TX]
S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]
S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 [Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]
S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]
S. 2679, Unsolved Civil Rights Crime Act [Talent, DeWine, Cornyn]

III. Matters

Subpoenas Relating to OPR Investigation

July 13, 2006

I. Nominations

Neil M. Gorsuch to be U.S. Circuit Judge for the Tenth Circuit
Jerome A. Holmes to be U.S. Circuit Judge for the Tenth Circuit
Kimberly Ann Moore to be U.S. Circuit Judge for the Federal Circuit
Bobby E. Shepherd to be U.S. Circuit Judge for the Eighth Circuit
Gustavo Antonio Gelpi to be U.S. District Judge for the District of Puerto Rico
Daniel Porter Jordan, III to be U.S. District Judge for the Southern District of Mississippi
Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta to be U.S. Attorney for the Southern District of Florida

Martin J. Jackley to be U.S. Attorney for the District of South Dakota

Brett L. Tolman to be U.S. Attorney for the District of Utah

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]

H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act [Smith—TX]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 [Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act [Talent, DeWine, Cornyn]

III. Matters

Subpoenas Relating to ABA Reports

July 19, 2006

I. Bills

S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 [Specter, Leahy, Grassley, Kennedy, DeWine, Feinstein, Brownback, Durbin, Schumer, Kohl, Biden, Feingold]

July 27, 2006

I. Nominations

Kimberly Ann Moore to be U.S. Circuit Judge for the Federal Circuit

Frances M. Tydingco-Gatewood to be Judge for the District Court of Guam

Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel

R. Alexander Acosta to be U.S. Attorney for the Southern District of Florida

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act [Talent, DeWine, Cornyn]

H.R. 1442, Complete the Codification of Title 46, United States Code

H.R. 866, Technical Corrections to the United States Code

III. Matters

Subpoenas Relating to ABA Reports

August 3, 2006

I. Nominations

Frances M. Tydingco-Gatewood to be Judge for the District Court of Guam

Troy A. Eid to be U.S. Attorney for the District of Colorado

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]

S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]

S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]

S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]

S. 2679, Unsolved Civil Rights Crime Act [Talent, DeWine, Cornyn]

H.R. 1442, Complete the Codification of Title 46, United States Code

H.R. 866, Technical Corrections to the United States Code

III. Matters

Subpoenas Relating to ABA Reports

September 7, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit
William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit
William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit
Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit
Valerie L. Baker to be U.S. District Judge for the Central District of California
Francisco Augusto Besosa to be U.S. District Judge for the District of Puerto Rico
Philip S. Gutierrez to be U.S. District Judge for the Central District of California
George E.B. Holding to be U.S. Attorney for the Eastern District of North Carolina
Sharon Lynn Potter to be U.S. Attorney for the Northern District of West Virginia

II. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]
S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes [Schumer]
S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]
S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Graham, Schumer, Biden, Grassley]
S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]
S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]
H.R. 1442, Complete the Codification of Title 46, United States Code
H.R. 866, Technical Corrections to the United States Code

September 13, 2006

I. Bills

S. 2453, National Security Surveillance Act of 2006 [Specter]
S. 2455, Terrorist Surveillance Act of 2006 [DeWine, Graham]
S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes. [Schumer]
S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006 [Specter, Feinstein]

September 14, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit
Kent A. Jordan to be U.S. Circuit Judge for the Third Circuit
Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit
William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit
Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit
Valerie L. Baker to be U.S. District Judge for the Central District of California
Francisco Augusto Besosa to be U.S. District Judge for the District of Puerto Rico
Philip S. Gutierrez to be U.S. District Judge for the Central District of California
Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida
John Alfred Jarvey to be U.S. District Judge for the Southern District of Iowa
Sara Elizabeth Lioi to be U.S. District Judge for the Northern District of Ohio

II. Bills

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Schumer, Graham, Biden, Grassley]
S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]
S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]
S. 394, OPEN Government Act of 2005 [Cornyn, Leahy, Feingold]
S. 3880, Animal Enterprise Terrorism Act [Inhofe, Feinstein]
S. 2644, Perform Act of 2006 [Feinstein, Graham, Biden]

III. Other Matters

Changes to 18 U.S.C. 2441 (War Crimes)

September 19, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit
William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit
Kent A. Jordan to be U.S. Circuit Judge for the Third Circuit
Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit
William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit
Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit
Valerie L. Baker to be U.S. District Judge for the Central District of California
Francisco Augusto Besosa to be U.S. District Judge for the District of Puerto Rico
Philip S. Gutierrez to be U.S. District Judge for the Central District of California

Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida

John Alfred Jarvey to be U.S. District Judge for the Southern District of Iowa

Sara Elizabeth Lioi to be U.S. District Judge for the Northern District of Ohio

September 21, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit

Kent A. Jordan to be U.S. Circuit Judge for the Third Circuit

Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit

William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit

Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit

Valerie L. Baker to be U.S. District Judge for the Central District of California

Francisco Augusto Besosa to be U.S. District Judge for the District of Puerto Rico

Nora Barry Fischer to be U.S. District Judge for the Western District of Pennsylvania

Gregory Kent Frizzell to be U.S. District Judge for the Northern District of Oklahoma

Philip S. Gutierrez to be U.S. District Judge for the Central District of California

Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida

John Alfred Jarvey to be U.S. District Judge for the Southern District of Iowa

Sara Elizabeth Lioi to be U.S. District Judge for the Northern District of Ohio

Lawrence Joseph O'Neill to be U.S. District Judge for the Eastern District of California

Lisa Godbey Wood to be U.S. District Judge for the Southern District of Georgia

Rodger A. Heaton to be U.S. Attorney for the Central District of Illinois

II. Bills

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Schumer, Graham, Biden, Grassley]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]

S. 394, OPEN Government Act of 2005 [Cornyn, Leahy, Feingold]

S. 3880, Animal Enterprise Terrorism Act [Inhofe, Feinstein]

S. 2644, Perform Act of 2006 [Feinstein, Graham, Biden]

S. 3818, Patent Reform Act of 2006 [Hatch, Leahy]

September 26, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit

Kent A. Jordan to be U.S. Circuit Judge for the Third Circuit

Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit

William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit

Nora Barry Fischer to be U.S. District Judge for the Western District of Pennsylvania

Gregory Kent Frizzell to be U.S. District Judge for the Northern District of Oklahoma

Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida

John Alfred Jarvey to be U.S. District Judge for the Southern District of Iowa

Sara Elizabeth Lioi to be U.S. District Judge for the Northern District of Ohio

Lisa Godbey Wood to be U.S. District Judge for the Southern District of Georgia

September 28, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit

William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit

Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit

William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit

Nora Barry Fischer to be U.S. District Judge for the Western District of Pennsylvania

Gregory Kent Frizzell to be U.S. District Judge for the Northern District of Oklahoma

Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida

Robert James Jonker to be U.S. District Judge for the Western District of Michigan

Paul Lewis Maloney to be U.S. District Judge for the Western District of Michigan

Janet T. Neff to be U.S. District Judge for the Western District of Michigan

Leslie Southwick to be U.S. District Judge for the Southern District of Mississippi

Lisa Godbey Wood to be U.S. District Judge for the Southern District of Georgia

II. Bills

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Schumer, Graham, Biden, Grassley]

S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]
S. 3880, Animal Enterprise Terrorism Act [Inhofe, Feinstein, Hatch, DeWine, Cornyn, Brownback, Coburn]
S. 2644, Perform Act of 2006 [Feinstein, Graham, Biden]
S. 3818, Patent Reform Act of 2006 [Hatch, Leahy]

September 29, 2006

I. Nominations

Terrence W. Boyle to be U.S. Circuit Judge for the Fourth Circuit
William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit
Peter D. Keisler to be U.S. Circuit Judge for the District of Columbia Circuit
William Gerry Myers III to be U.S. Circuit Judge for the Ninth Circuit
Nora Barry Fischer to be U.S. District Judge for the Western District of Pennsylvania
Gregory Kent Frizzell to be U.S. District Judge for the Northern District of Oklahoma
Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida
Robert James Jonker to be U.S. District Judge for the Western District of Michigan
Paul Lewis Maloney to be U.S. District Judge for the Western District of Michigan
Janet T. Neff to be U.S. District Judge for the Western District of Michigan
Leslie Southwick to be U.S. District Judge for the Southern District of Mississippi
Lisa Godbey Wood to be U.S. District Judge for the Southern District of Georgia
Sharon Lynn Potter to be U.S. Attorney for the Northern District of West Virginia
Deborah Jean Johnson Rhodes to be U.S. Attorney for the Southern District of Alabama

II. Bills

S. 2831, Free Flow of Information Act of 2006 [Lugar, Specter, Schumer, Graham, Biden, Grassley]
S. 155, Gang Prevention and Effective Deterrence Act of 2005 [Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter]
S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005 [Ensign, Kyl]
S. 3880, Animal Enterprise Terrorism Act [Inhofe, Feinstein, Hatch, DeWine, Cornyn, Brownback, Coburn]
S. 2644, Perform Act of 2006 [Feinstein, Graham, Biden]
S. 3818, Patent Reform Act of 2006 [Hatch, Leahy]

SUBCOMMITTEE EXECUTIVE BUSINESS MEETINGS

November 2, 2005

I. Bill

S.J. Res. 1, the Marriage Protection Amendment

November 9, 2005

I. Bills

S.J. Res. 1, the Marriage Protection Amendment
S.J. Res. 12, the Flag Desecration Resolution

D. BILLS, NOMINATIONS, AND MATTERS REPORTED

Date of Executive Business Meeting	Bills, Nominations, and Matters Reported
1/26/05	Alberto Gonzales to be the Attorney General of the United States.
2/3/05	Committee Funding Resolution.
	S. 5, Class Action Fairness Act of 2005.
2/17/05	S. 256, A bill to Amend Title 11 of the United States Code, and for Other Purposes Act of 2005.
3/17/05	William G. Myers, III to be U.S. Circuit Judge for the Ninth Circuit.
	Paul A. Crotty to be U.S. District Judge for the Southern District of New York.
	J. Michael Seabright to be U.S. District Judge for the District of Hawaii.
	S. 188, State Criminal Alien Assistance Program Reauthorization Act of 2005.
	S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays.
	Subcommittee Approval.
4/14/05	Thomas B. Griffith to be U.S. Circuit Judge for the District of Columbia Circuit.
	Robert J. Conrad, Jr. to be U.S. District Judge for the Western District of North Carolina.
	James C. Dever, III to be U.S. District Judge for the Eastern District of North Carolina.
	S. 119, Unaccompanied Alien Child Protection Act of 2005.
	S. 555, No Oil Producing and Exporting Cartels Act of 2005.
4/21/05	S. 339, Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005.
	S. 378, Reducing Crime and Terrorism at America's Seaports Act of 2005.
	S. 629, Railroad Carriers and Mass Transportation Act of 2005.
	Priscilla R. Owen to be U.S. Circuit Judge for the Fifth Circuit.
	Janice Rogers Brown to be U.S. Circuit Judge for the District of Columbia Circuit.
5/12/05	William H. Pryor, Jr. to be U.S. Circuit Judge for the Eleventh Circuit.
5/26/05	S. 852, A bill to Create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for Other Purposes.
	Richard Griffin to be U.S. Circuit Court Judge for the Sixth Circuit.
	David McKeague to be U.S. Circuit Court Judge for the Sixth Circuit.
	Paul Clement to be Solicitor General of the United States.
	Anthony Jerome Jenkins to be U.S. Attorney for the District of the Virgin Islands.
	Stephen Joseph Murphy III to be U.S. Attorney for the Eastern District of Michigan.
	Gretchen C. F. Shappert to be U.S. Attorney for the Western District of North Carolina.
	Regina B. Schofield to be an Assistant Attorney General for the Office of Justice Programs.
6/9/05	S. 1181, Which is Section 8 of Openness Promotes Effectiveness in our National Government Act of 2005.
6/16/05	Terrence W. Boyle, II to be U.S. Circuit Judge for the Fourth Circuit.
	Rachel Brand to be an Assistant Attorney General for the Office of Legal Policy.
	Alice S. Fisher to be an Assistant Attorney General for the Criminal Division.
	S. 491, Christopher Kangas Fallen Firefighter Apprentice Act.
6/23/05	No Quorum.
6/30/05	James B. Letten to be U.S. Attorney for the Eastern District of Louisiana.
	Rod J. Rosenstein to be U.S. Attorney for the District of Maryland.
7/14/05	Senate Judiciary Committee Rules Approved.
7/21/05	S. 1389, To reauthorize and improve the USA PATRIOT Act.
7/28/05	Michael J. Garcia to U.S. Attorney for the Southern District of New York.
	Peter Swaim to U.S. Marshall for the Southern District of Indiana.
	S. 103, Combat Meth Act of 2005.
9/8/05	Kenneth L. Wainstein to be United States Attorney for the District of Columbia.
	S. 1197, Violence Against Women Act of 2005.
	Asbestos Subpoenas.
9/22/05	John G. Roberts to be Chief Justice of the United States.
10/20/05	Susan Neilson to be U.S. Circuit Judge for the Sixth Circuit.
	John Richard Smoak to be U.S. District Judge for the Northern District of Florida.
	Brian Edward Sandoval to be U.S. District Judge for the District of Nevada.
	Harry Sandlin Mattice, Jr. to be U.S. District Judge for the Eastern District of Tennessee.
	Margaret Mary Sweeney to be a Judge of the United States Court of Federal Claims.
	Thomas Craig Wheeler to be a Judge of the United States Court of Federal Claims.
	S. 1326, Notification of Risk to Personal Data Act.

Date of Executive Business Meeting	Bills, Nominations, and Matters Reported
	S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses.
	S. 443, Antitrust Criminal Investigative Improvements Act of 2005.
	Budget Reconciliation.
11/3/05	Wan Kim to be an Assistant Attorney General, Civil Rights Division.
	Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel.
	Sue Ellen Wooldridge to be an Assistant Attorney General, Environment and Natural Resources Division.
	Thomas O. Barnett to be an Assistant Attorney General, Antitrust Division.
	S. 1699, Stop Counterfeiting in Manufactured Goods Act.
	S. 1095, Protecting American Goods and Services Act of 2005.
11/9/05	S.J. Res. 1, Marriage Protection Amendment reported by Subcommittee on the Constitution, Civil Rights and Property Rights.
11/17/05	Joseph Frank Bianco to be U.S. District Judge for the Eastern District of New York.
	Timothy Mark Burgess to be U.S. District Judge for the District of Alaska.
	Gregory F. Van Tatenhove to be U.S. District Judge for the Eastern District of Kentucky.
	Eric Nicholas Vitaliano to be U.S. District Judge for the Eastern District of New York.
	Kristi Dubose to be United States District Judge for the Southern District of Alabama.
	W. Keith Watkins to be United States District Judge for the Middle District of Alabama.
	Virginia Mary Kendall to be United States District Judge for the Northern District of Illinois.
	Emilio Gonzalez to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security.
	Catherine Lucille Hanaway to be U.S. Attorney for the Eastern District of Missouri.
	S. 1789, Personal Data Privacy and Security Act of 2005.
	S. 1961, Extending the Child Safety Pilot Program Act of 2005.
	S. 1354, Wartime Treatment Study Act.
1/24/06	Samuel A. Alito, Jr. to be an Associate Justice of the Supreme Court of the United States.
2/16/06	Timothy C. Batten, Sr. to be U.S. District Judge for the Northern District of Georgia.
	Thomas E. Johnston to be U.S. District Judge for the Southern District of West Virginia.
	Aida M. Delgado-Colon to be U.S. District Judge for the District of Puerto Rico.
	Leo Maury Gordon to be a Judge of the United States Court of International Trade.
	Carol E. Dinkins to be Chairman of the Privacy and Civil Liberties Oversight Board.
	Alan Charles Raul to be Vice Chairman of the Privacy and Civil Liberties Oversight Board.
	Paul J. McNulty to be Deputy Attorney General.
	Reginald Lloyd to be U.S. Attorney for the District of South Carolina.
	Stephen King to be a Member of the Foreign Claims Settlement Commission of the United States.
	H.R. 683, Trademark Dilution Revision Act of 2005.
3/2/06	Jack Zouhary to be U.S. District Judge for the Northern District of Ohio.
	Stephen G. Larsonto be U.S. District Judge for the Central District of California.
	Terrance P. Flynn to be U.S. Attorney for the Western District of New York.
	S. 2178, Consumer Telephone Records Protection Act of 2006.
3/9/06	Donald J. DeGabrielle, Jr. to be U.S. Attorney for the Southern District of Texas.
	John Charles Richter to be U.S. Attorney for the Western District of Oklahoma.
	Amul R. Thapar to be U.S. Attorney for the Eastern District of Kentucky.
	Mauricio J. Tamargo to be Chairman of the Foreign Claims Settlement Commission of the United States.
3/16/06	John F. Clark to be Director of the United States Marshals Service.
	David F. Kustoff to be United States Attorney for the Western District of Tennessee.
3/30/06	Michael A. Chagares to be United States Circuit Judge for the Third Circuit.
	Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota.
	Gray Hampton Miller to be United States District Judge for the Southern District of Texas.
	Sharee M. Freeman to be Director, Community Relations Service, U.S. Department of Justice.
	Jeffrey L. Sedgwick to be Director of the Bureau of Justice Statistics, U.S. Department of Justice.
	S. 1768, A bill to permit the televising of Supreme Court proceedings.
	S. 829, Sunshine in the Courtroom Act of 2005.
4/27/06	Michael Ryan Barrett to be United States District Judge for the Southern District of Ohio.
	Brian M. Cogan to be United States District Judge for the Eastern District of New York.
	Thomas M. Golden to be United States District Judge for the Eastern District of Pennsylvania.
	Timothy Anthony Junker to be United States Marshal for the Northern District of Iowa.
	Patrick Smith to be United States Marshal for the Western District of North Carolina.
	S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges.
	S. 2557, Oil and Gas Industry Antitrust Act of 2006.
5/4/06	Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit.
	Milan D. Smith, Jr. to be U.S. Circuit Judge for the Ninth Circuit.
	Renee Marie Bumb to be U.S. District Judge for the District of New Jersey.
	Noel Lawrence Hillman to be U.S. District Judge for the District of New Jersey.

Date of Executive Business Meeting	Bills, Nominations, and Matters Reported
	Peter G. Sheridan to be U.S. District Judge for the District of New Jersey.
	Susan Davis Wigenton to be U.S. District Judge for the District of New Jersey.
	S.J. Res. 12, Flag Desecration resolution reported by Subcommittee on the Constitution, Civil Rights and Property Rights.
5/11/06	Brett Kavanaugh to be U.S. Circuit Judge for the DC Circuit.
	Sean F. Cox to be U.S. District Judge for the Eastern District of Michigan.
	Thomas L. Ludington to be U.S. District judge for the Eastern District of Michigan.
5/18/06	S.J. Res. 1, Marriage Protection Amendment.
5/25/06	Sandra Segal Ikuta to be U.S. Circuit Judge for the Ninth Circuit.
	Erik C. Peterson to be U.S. Attorney for the Western District of Wisconsin.
	Gary D. Orton to be United States Marshal for the District of Nevada.
	S. 2039, Prosecutors and Defenders Incentive Act of 2005.
	S. 2560, Office of National Drug Control Policy Reauthorization Act of 2006.
6/8/06	Andrew J. Guilford to be U.S. District Judge for the Central District of California.
	Charles P. Rosenberg to be U.S. Attorney for the Eastern District of Virginia.
6/15/06	Frank D. Whitney to be U.S. District Judge for the Western District of North Carolina.
	Kenneth L. Wainstein to be an Assistant Attorney General.
	Thomas D. Anderson to be U.S. Attorney for the District of Vermont.
	S.J. Res. 12, Flag Desecration resolution.
7/13/06	Neil M. Gorsuch to be U.S. Circuit Judge for the Tenth Circuit.
	Jerome A. Holmes to be U.S. Circuit Judge for the Tenth Circuit.
	Bobby E. Shepherd to be U.S. Circuit Judge for the Eighth Circuit.
	Gustavo Antonio Gelpi to be U.S. District Judge for the District of Puerto Rico.
	Daniel Porter Jordan, III to be U.S. District Judge for the Southern District of Mississippi.
	Martin J. Jackley to be U.S. Attorney for the District of South Dakota.
	Brett L. Tolman to be U.S. Attorney for the District of Utah.
	H.R. 1036, Copyright Royalty Judges Program Technical Corrections Act.
7/19/06	S. 2703, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006.
7/27/06	Kimberly Ann Moore to be U.S. Circuit Judge for the Federal Circuit.
	Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel.
	R. Alexander Acosta to be U.S. Attorney for the Southern District of Florida.
8/3/06	Frances M. Tydingco-Gatewood to be Judge for the District Court of Guam.
	Troy A. Eid to be U.S. Attorney for the District of Colorado.
	S. 2679, Unsolved Civil Rights Crime Act.
9/7/06	George E.B. Holding to be U.S. Attorney for the Eastern District of North Carolina
	H.R. 1442, Complete the Codification of Title 46, United States Code.
	H.R. 866, Technical Corrections to the United States Code.
9/13/06	S. 2453, National Security Surveillance Act of 2006.
	S. 2455, Terrorist Surveillance Act of 2006.
	S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006.
9/21/06	Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit.
	Valerie L. Baker to be U.S. District Judge for the Central District of California.
	Francisco Augusto Besosa to be U.S. District Judge for the District of Puerto Rico.
	Philip S. Gutierrez to be U.S. District Judge for the Central District of California.
	Lawrence Joseph O'Neill to be U.S. District Judge for the Eastern District of California.
	Rodger A. Heaton to be U.S. Attorney for the Central District of Illinois.
	S. 394, OPEN Government Act of 2005.
9/26/06	Kent A. Jordan to be U.S. Circuit Judge for the Third Circuit.
	Sara Elizabeth Lioi to be U.S. District Judge for the Northern District of Ohio.
	Alfred Jarvey to be U.S. District Judge for the Southern District of Iowa.
9/29/06	Nora Barry Fischer to be U.S. District Judge for the Western District of Pennsylvania.
	Gregory Kent Frizzell to be U.S. District Judge for the Northern District of Oklahoma.
	Marcia Morales Howard to be U.S. District Judge for the Middle District of Florida.
	Robert James Jonker to be U.S. District Judge for the Western District of Michigan.
	Paul Lewis Maloney to be U.S. District Judge for the Western District of Michigan.
	Janet T. Neff to be U.S. District Judge for the Western District of Michigan.
	Leslie Southwick to be U.S. District Judge for the Southern District of Mississippi.
	Lisa Godbey Wood to be U.S. District Judge for the Southern District of Georgia.
	Sharon Lynn Potter to be U.S. Attorney for the Northern District of West Virginia.
	Deborah Jean Johnson Rhodes to be U.S. Attorney for the Southern District of Alabama.

E. SUCCESSFUL LEGISLATION

SENATE JUDICIARY COMMITTEE LAWS PASSED DURING THE 109TH CONGRESS

Public Law 109–2 Class Action Fairness Act of 2005, 2/18/2005

Public Law 109–8 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 4/20/2005

Public Law 109–9 Family Entertainment and Copyright Act of 2005, 4/27/2005

Public Law 109–13 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, 5/11/2006 [1]

Public Law 109–56 To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes, 8/2/2005

Public Law 109–160 Extension of Sunset of Certain Provisions of the USA PATRIOT ACT and the Lone Wolf Provision of the Intelligence Reform and Terrorism Prevention Act of 2004

Public Law 109–162 Violence Against Women and Department of Justice Reauthorization Act of 2005, 1/5/2006 [2]

Public Law 109–170 To amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act, 2/3/2006

Public Law 109–171 Deficit Reduction Act of 2005, 2/8/2006 [3]

Public Law 109–177 USA PATRIOT Improvement and Reauthorization Act of 2005, 3/9/2006 [4]

Public Law 109–178 USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, 3/9/2006

Public Law 109–181 Stop Counterfeiting in Manufactured Goods Act, 3/16/2006

Public Law 109–246 Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, 7/27/2006

Public Law 109–248 Adam Walsh Child Protection and Safety Act of 2006, 7/27/2006 [5]

Public Law 109–284 To make technical corrections to the United States Code, 9/27/2006

Public Law 109–303 Copyright Royalty Judges Program Technical Corrections Act, 10/6/2006

Public Law 109–304 To complete the codification of title 46, United States Code, 'Shipping', as positive law, 10/6/2006

Public Law 109–312 Dilution Revision Act of 2006, 10/6/2006

Public Law 109–314 National Law Enforcement Officers Memorial Maintenance Fund Act of 2005, 10/6/2006

Public Law 109–364 John Warner National Defense Authorization Act for Fiscal Year 2007, 10/17/2006 [6]

---

[1] Includes Save Our Small and Seasonal Businesses Act of 2005 and REAL ID Act of 2005

[2] Includes Extending the Child Safety Pilot Program Act of 2005

[3] Includes Budget Reconciliation

[4] Includes Combat Meth Act of 2005 and Secret Service Authorization and Technical Modification Act of 2005

[5] Includes Dru Sjodin National Sex Offender Public Database Act of 2005 and Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Grant Act

[6] Includes Save Our Small and Seasonal Businesses Act of 2006

Public Law 109–367 Secure Fence Act of 2006, 10/26/2006
Public Law 109–374 Animal Enterprise Terrorism Act, 11/27/2006

CLEARED FOR WHITE HOUSE, PENDING PRESIDENT'S SIGNATURE

Public Law 109–_____ Nursing Relief for Disadvantaged Areas Reauthorization Act
Public Law 109–_____ A bill to amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces
Public Law 109–_____ Office of National Drug Control Policy Reauthorization
Public Law 109–_____ A bill to apply amendments to the Immigration and Nationality Act related to providing medical services in underserved areas, and for other purposes
Public Law 109–_____ Telephone Records and Privacy Protection Act
Public Law 109–_____ Stolen Valor Act of 2005
Public Law 109–_____ Geneva Distinctive Emblems Protection Act of 2006

SENATE JUDICIARY COMMITTEE LEGISLATION PASSED BY THE SENATE DURING THE 109TH CONGRESS

S. 5—Class Action Fairness Act of 2005, Sen Grassley [R–IA], referred and reported
S. 5—Class Action Fairness Act of 2005, 2/10/2005 passed Senate
Public Law 109–2 Class Action Fairness Act of 2005, 2/18/2005
S. 8—Child Custody Protection Act, Sen Ensign [R–NV], referred
S. 396—Child Custody Protection Act, referred
S. 403—Child Custody Protection Act, 7/25/2006 passed Senate
S. 45—A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes, Sen Levin [D–MI], referred and discharged
S. 45—A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes, 7/19/2005 passed Senate
Public Law 109–56 To amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes, 8/2/2005
S. 103—Combat Meth Act of 2005, Sen Talent [R–MO], referred and reported
Conference Report 109–333 USA PATRIOT Improvement and Reauthorization Act of 2005, 12/8/2005 incorporated and passed Senate
Public Law 109–177 USA PATRIOT Improvement and Reauthorization Act of 2005, 3/9/2006
S. 119—Unaccompanied Alien Child Protection Act of 2005, Sen Feinstein [D–CA], referred and reported
S. 119—Unaccompanied Alien Child Protection Act of 2005, 12/22/2005 passed Senate
S. 167—Family Entertainment and Copyright Act of 2005, Sen Hatch [R–UT], referred and discharged

S. 167—Family Entertainment and Copyright Act of 2005, 2/1/2005 passed Senate

Public Law 109–9 Family Entertainment and Copyright Act of 2005, 4/27/2005

S. 188—State Criminal Alien Assistance Program Reauthorization Act of 2005, Sen Feinstein [D–CA], referred and reported

S. 188—State Criminal Alien Assistance Program Reauthorization Act of 2005, 5/23/05 passed Senate

S. 256—Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Sen Grassley [R–IA], referred and reported

S. 256—Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 3/11/2005 passed Senate

Public Law 109–8 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 4/20/2005

S. 289—A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011. Sen DeWine [R–OH], referred and discharged

S. 289—A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011. 4/18/2005 passed Senate

S. 352—Save Our Small and Seasonal Businesses Act of 2005, Sen Mikulski [D–MD], referred

Conference Report 109–72 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005, 5/10/2005 incorporated and passed Senate

Public Law 109–13 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, 5/11/2006

S. 382—Animal Fighting Prohibition Enforcement Act of 2005, Sen Ensign [R–NV], referred and discharged

S. 382—Animal Fighting Prohibition Enforcement Act of 2005, 4/29/2005 passed Senate

S. 443—Antitrust Criminal Investigative Improvements Act of 2005, Sen DeWine [R–OH], referred and reported

S. 443—Antitrust Criminal Investigative Improvements Act of 2005, 10/25/2005 passed Senate

S. 792—Dru Sjodin National Sex Offender Public Database Act of 2005, Sen Dorgan [D–ND], referred and discharged

S. 792—Dru Sjodin National Sex Offender Public Database Act of 2005, 7/28/2005 passed Senate

H.R. 4472—Adam Walsh Child Protection and Safety Act of 2006, 7/20/2006 incorporated and passed Senate

Public Law 109–248 Adam Walsh Child Protection and Safety Act of 2006, 7/27/2006

S. 959—Star-Spangled Banner and War of 1812 Bicentennial Commission Act, Sen Sarbanes [D–MD], referred and discharged

S. 959—Star-Spangled Banner and War of 1812 Bicentennial Commission Act, 12/16/2005 passed Senate

S. 1086—Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Grant Act, Sen Hatch [R–UT]

S. 1086—Jacob Wetterling, Megan Nicole Kanka, and Pam Lychner Sex Offender Registration and Notification Grant Act, 5/4/2006 passed Senate

H.R. 4472—Adam Walsh Child Protection and Safety Act of 2006, 7/20/2006 incorporated and passed Senate

Public Law 109–248 Adam Walsh Child Protection and Safety Act of 2006, 7/27/2006

S. 1095—Protecting American Goods and Services Act of 2005, Sen Cornyn [R–TX], referred and reported

S. 1095—Protecting American Goods and Services Act of 2005, 11/10/2005 passed Senate

S. 1181—A bill to ensure an open and deliberate process in Congress by providing that any future legislation to establish a new exemption to section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) be stated explicitly within the text of the bill. Sen Cornyn [R–TX], referred and reported

S. 1181—A bill to ensure an open and deliberate process in Congress by providing that any future legislation to establish a new exemption to section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) be stated explicitly within the text of the bill. 6/24/05 passed Senate

S. 1197—Violence Against Women Act of 2005, Sen Biden [D–DE], referred and reported

S. 1197—Violence Against Women Act of 2005, 10/4/2005 passed Senate

H.R. 3402—Violence Against Women and Department of Justice Reauthorization Act of 2005, referred and reported

H.R. 3402—Violence Against Women and Department of Justice Reauthorization Act of 2005, 12/16/2005 passed Senate

Public Law 109–162 Violence Against Women and Department of Justice Reauthorization Act of 2005, 1/5/2006

S. 1389—USA PATRIOT Improvement and Reauthorization Act of 2005, Sen Specter [R–PA], referred and reported

H.R. 3199—USA PATRIOT Improvement and Reauthorization Act of 2005, 7/29/2005 passed Senate

S. 2167—A bill to amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to July 1, 2006. 12/22/2005 passed Senate

Public Law 109–160 Extension of Sunset of Certain Provisions of the USA PATRIOT ACT and the Lone Wolf Provision of the Intelligence Reform and Terrorism Prevention Act of 2004

H.R. 4659—To amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act, 2/2/2006 passed Senate

Conference Report 109–333 USA PATRIOT Improvement and Reauthorization Act of 2005, 12/8/2005, includes: Combat Methamphetamine Epidemic Act of 2005; Secret Service Authorization and Technical Modification Act of 2005

Public Law 109–170 To amend the USA PATRIOT ACT to extend the sunset of certain provisions of such Act, 2/3/2006

S. 2271—USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, Sen Sununu [R–NH], 3/1/2006 passed Senate

Public Law 109–177 USA PATRIOT Improvement and Reauthorization Act of 2005, 3/9/2006

Public Law 109–178 USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006, 3/9/2006

S. 1699—Stop Counterfeiting in Manufactured Goods Act, Sen Specter [R–PA], referred and reported

S. 1699—Stop Counterfeiting in Manufactured Goods Act, Sen Specter [R–PA], passed Senate 11/10/2005

H.R. 32—Stop Counterfeiting in Manufactured Goods Act, referred and discharged

H.R. 32—Stop Counterfeiting in Manufactured Goods Act, 2/15/2006 passed Senate

Public Law 109–181 Stop Counterfeiting in Manufactured Goods Act, 3/16/2006

S.1 785—Vessel Hull Design Protection Amendments of 2005, Sen Cornyn [R–TX], referred and discharged

S. 1785—Vessel Hull Design Protection Amendments of 2005, 11/18/2005 passed Senate

S. _____—Budget Reconciliation, [Chairman's Mark], 10/20/2005 reported

S. 1932—Deficit Reduction Act of 2005, 11/3/2005 passed Senate

Public Law 109–171 Deficit Reduction Act of 2005, 2/8/2006

S. 1961—Extending the Child Safety Pilot Program Act of 2005, Sen Biden [D–DE], referred and reported

S. 1961—Extending the Child Safety Pilot Program Act of 2005, 11/18/2005 passed Senate

H.R. 3402—Violence Against Women and Department of Justice Reauthorization Act of 2005, 12/16/2005 incorporated and passed Senate

Public Law 109–162 Violence Against Women and Department of Justice Reauthorization Act of 2005, 1/5/2006

S. 1967—Secret Service Authorization and Technical Modification Act of 2005, Sen Specter [R–PA], referred

Conference Report 109–333 USA PATRIOT Improvement and Reauthorization Act of 2005, 12/8/2005 incorporated and passed Senate

Public Law 109–177 USA PATRIOT Improvement and Reauthorization Act of 2005, 3/9/2006

S. 1968—Court Security Improvement Act of 2005, Sen Specter [R–PA], referred

H.R. 1751—Court Security Improvement Act of 2006, referred and discharged

H.R. 1751—Court Security Improvement Act of 2006, 12/6/2006 passed Senate

S. 1998—Stolen Valor Act of 2005, Sen Conrad [D–ND], referred and discharged

S. 1998—Stolen Valor Act of 2005, 9/8/2006 passed Senate

Public Law 109–_____

S. 2178—Consumer Telephone Records Protection Act of 2006, Sen Schumer, [D–NY], referred and reported

H.R. 4709—Telephone Records and Privacy Protection Act of 2006, referred and discharged
H.R. 4709—Telephone Records and Privacy Protection Act of 2006, 12/8/2006 passed Senate
Public Law 109–_____
S. 2284—Save Our Small and Seasonal Businesses Act of 2006, Sen Mikulski [D–MD], referred
H.R. 5122—John Warner National Defense Authorization Act for Fiscal Year 2007, 6/22/2006 incorporated and passed Senate
Conference Report 109–702, 9/29/2006
Public Law 109–364 John Warner National Defense Authorization Act for Fiscal Year 2007, 10/17/2006
S. 2425—A bill to apply amendments to the Immigration and Nationality Act related to providing medical services in underserved areas, and for other purposes, Sen Conrad [D–ND], referred
H.R. 4997—Physicians for Underserved Areas Act, 12/9/2006 passed Senate
Public Law 109–_____
S. 2560—Office of National Drug Control Policy Reauthorization Act of 2006, Sen Specter [R–PA], referred and reported
H.R. 6344—Office of National Drug Control Policy Reauthorization Act of 2006, 12/8/2006 passed Senate
Public Law 109–_____
S. _____—Comprehensive Immigration Reform, [Chairman's Mark]
S. 2454—Securing America's Borders Act, Sen Frist [R–TN]
S. 2611—Comprehensive Immigration Reform Act of 2006, Sen Specter [R–PA], 5/25/2006 passed Senate
S. 2703—Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and Cesar E. Chavez Voting Rights Act
Reauthorization and Amendments Act of 2006, Sen Specter [R–PA], referred and reported
H.R. 9—Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, 7/20/2006 passed Senate
Public Law 109–246 Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006, 7/27/2006
S. 3880—Animal Enterprise Terrorism Act, Sen Inhofe [R–OK], referred and discharged
S. 3880—Animal Enterprise Terrorism Act, 9/30/2006 passed Senate
Public Law 109–374 Animal Enterprise Terrorism Act, 11/27/06
S. 4042—A bill to amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces, Sen Durbin [D–IL], referred and discharged
S. 4042—A bill to amend title 18, United States Code, to prohibit disruptions of funerals of members or former members of the Armed Forces, 12/7/2006 passed Senate
Public Law 109–_____
S. 4055—Preserving Crime Victims' Restitution Act of 2006, Sen Feinstein [D–CA], referred and discharged

S. 4055—Preserving Crime Victims' Restitution Act of 2006, 12/9/2006 passed Senate
H.R. 418—REAL ID Act of 2005, Rep Sensenbrenner [R–WI–5], referred
Conference Report 109–72 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act, 2005, 5/10/2005 incorporated and passed Senate
Public Law 109–13 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, 5/11/2006
H.R. 683—Trademark Dilution Revision Act of 2006, Rep Smith [R–TX–15], referred and reported
H.R. 683—Trademark Dilution Revision Act of 2006, 3/8/2006 passed Senate
Public Law 109–312 Dilution Revision Act of 2006, 10/6/2006
H.R. 866—To make technical corrections to the United States Code, Rep Sensenbrenner [R–WI–5], referred and reported
H.R. 866—To make technical corrections to the United States Code, 9/12/2006 passed Senate
Public Law 109–284 To make technical corrections to the United States Code, 9/27/2006
H.R. 1036—Copyright Royalty Judges Program Technical Corrections Act, Rep Smith [R–TX–15], referred and reported
H.R. 1036—Copyright Royalty Judges Program Technical Corrections Act, 7/19/2006 passed Senate
Public Law 109–303 Copyright Royalty Judges Program Technical Corrections Act, 10/6/2006
H.R. 1285—Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005, Rep Rush [D–IL–1], referred and discharged
H.R. 1285—Nursing Relief for Disadvantaged Areas Reauthorization Act of 2005, 12/6/2006 passed Senate
Public Law 109–_____
H.R. 1442—To complete the codification of title 46, United States Code, 'Shipping', as positive law, Rep. Sensenbrenner [R–WI–5], referred and reported
H.R. 1442—To complete the codification of title 46, United States Code, 'Shipping', as positive law, 9/13/2006 passed Senate
Public Law 109–304 To complete the codification of title 46, United States Code, 'Shipping', as positive law, 10/6/2006
H.R. 2107 National Law Enforcement Officers Memorial Maintenance Fund Act of 2005, Rep Saxton [R–NJ–3], referred and discharged
H.R. 2107 National Law Enforcement Officers Memorial Maintenance Fund Act of 2005, 9/29/06 passed Senate
Public Law 109–314 National Law Enforcement Officers Memorial Maintenance Fund Act of 2005, 10/6/2006
H.R. 6061—Secure Fence Act of 2006, Rep King [R–NY–3]
H.R. 6061—Secure Fence Act of 2006, 9/29/2006 passed Senate
Public Law 109–367 Secure Fence Act of 2006, 10/26/2006
H.R. 6338—Geneva Distinctive Emblems Protection Act of 2006, Rep Flake [R–AZ–6]

H.R. 6338—Geneva Distinctive Emblems Protection Act of 2006, 12/8/2006 passed Senate
Public Law 109–_____

F. PUBLICATIONS

Printed Hearings:

Serial No. J–109–1.	Full	Nomination of Hon. Alberto R. Gonzales, to be Attorney General of the United States.
Serial No. J–109–2A.	Full	The Fairness In Asbestos Injury Resolution Act.
Serial No. J–109–2B.	Full	Asbestos: The Mixed Dust and FELA Issues.
Serial No. J–109–2C.	Full	A Bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.
Serial No. J–109–3.	Full	Bankruptcy Reform.
Serial No. J–109–4.	Full	Confirmation Hearings on Federal Appointments-Multiple Parts.
Serial No. J–109–5.	T&T	Terrorism and the EMP Threat to Homeland Security.
Serial No. J–109–6.	Imm/T&T ..	Strengthening Enforcement and Border Security: The 9/11 Commission Staff Report on Terrorist Travel.
Serial No. J–109–7.	Imm/T&T ..	Openness in Government and Freedom of Information: Examining the Open Government Act of 2005.
Serial No. J–109–8.	Full	SBC/AT&T and Verizon/MCI Mergers-Remaking the Telecommunications Industry.
Serial No. J–109–8A.	AT	SBC/AT&T and Verizon/MCI Mergers-Remaking the Telecommunications Industry, Part 2-Another View.
Serial No. J–109–9.	Con	Obscenity Prosecution and the Constitution.
Serial No. J–109–10.	Full	Oversight of the USA Patriot Act.
		Oversight to Examine the Implementation of the USA Patriot Act.
Serial No. J–109–11.	Full	Securing Electronic Personal Data: Striking a Balance Between Privacy and Commercial and Governmental Use.
Serial No. J–109–12.	Con	Less Faith in Judicial Credit: Are Federal and State Defense of Marriage Initiatives Vulnerable to Judicial Activism?
Serial No. J–109–13.	Imm	Strengthening Interior Enforcement: Deportation and Related Issues.
Serial No. J–109–14.	T&T	A Review of the Material Support to Terrorism Prohibition Improvements Act.
Serial No. J–109–15.	Full	Protecting the Judiciary at Home and in the Courthouse.
Serial No. J–109–16.	Full	Nomination of Paul D. Clement to be Solicitor General of United States.
Serial No. J–109–17.	IP	Perspectives on Patents.
Serial No. J–109–18.	Imm	Strengthening Border Security Between the Ports of Entry: The Use of Technology to Protect the Borders.
Serial No. J–109–19.	Full	Nominations of Rachel Brand, of Iowa, Regina B. Schofield, of Virginia, each to be an Assistant Attorney General, Department of Justice.
Serial No. J–109–20.	Full	The Need for Comprehensive Immigration Reform: Strengthening our National Security.
Serial No. J–109–21.	Full	Nomination of William G. Myers III, of Idaho, to be Circuit Judge for the Ninth Circuit Court of Appeals.
Serial No. J–109–22.	IP	Piracy of Intellectual Property.
Serial No. J–109–23.	Imm	The Need for Comprehensive Immigration Reform: Serving Our National Economy.
Serial No. J–109–23A.	Imm	The Need for Comprehensive Immigration Reform: Securing the Cooperation of Participating Countries.

Serial No. J–109–24.	Imm/T&T ..	The Southern Border in Crisis: Resources and Strategies to T&T Improve National Security.
Serial No. J–109–25.	Full	Detainees.
Serial No. J–109–26.	Full	Prevention of Youth and Gang Violence.
Serial No. J–109–27.	IP	Patent Law Reform: Injunctions and Damages.
Serial No. J–109–28.	Con	The Consequences of Roe v. Wade and Doe v. Bolton.
Serial No. J–109–29.	Full	Habeas Corpus Proceedings and Issues of Actual Innocence.
Serial No. J–109–30.	IP	Music Licensing Reform.
Serial No. J–109–31.	Full	Reporters' Privilege Legislation: Issues and Implications.
Serial No. J–109–32.	Admn	A Review of Federal Consent Decrees.
Serial No. J–109–33.	Full	Reauthorization of the Violence Against Women Act.
Serial No. J–109–34.	Full	Comprehensive Immigration Reform.
Serial No. J–109–35.	IP	Perspective on Patents: Harmonization and Other Matters.
Serial No. J–109–36.	Full	Federal Bureau of Investigation Oversight.
Serial No. J–109–37.	Full	Nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.
Serial No. J–109–38.	Full	The Kelo Decision: Investigating Takings of Homes and Other Private Property.
Serial No. J–109–39.	Full	Able Danger and Intelligence Information Sharing.
Serial No. J–109–40.	Full	Protecting Copyright and Innovation in a Post-Grokster World.
Serial No. J–109–41.	Full	Confirmation Hearings on Federal Appointments.
Serial No. J–109–42.	Full	Comprehensive Immigration Reform II.
Serial No. J–109–43.	AT	Video Competition in 2005—More Consolidation, or New Choices for Consumers?
Serial No. J–109–44.	Full	Reporters' Privilege Legislation: An Additional Investigation of Issues and Implications.
Serial No. J–109–45.	Con	An Examination of the Constitutional Amendment on Marriage.
Serial No. J–109–46.	T&T	Emergency Preparedness.
Serial No. J–109–47.	Admn	Revisiting Proposals to Split the Ninth Circuit: An Inevitable Solution to a Growing Problem.
Serial No. J–109–48.	Full	Confirmation Hearings on Federal Appointments.
Serial No. J–109–49.	Full	Saudi Arabia: Friend or Foe in the War on Terror?
Serial No. J–109–50.	Full	Cameras in the Courtroom.
Serial No. J–109–51.	Con	Why the Government Should Care about Pornography: The State Interest in Protecting Children and Families.
Serial No. J–109–52.	Full	Habeas Reform: The Streamlined Procedures Act.
Serial No. J–109–53.	Admn	Creating New Federal Judgeships: The Systematic or Piecemeal Approach.
Serial No. J–109–54.	Full	Recent Developments in Assessing Future Asbestos Claims Under the FAIR Act.
Serial No. J–109–55.	Imm	Proposed Western Hemisphere Passport Rules: Impact on Trade and Tourism.
Serial No. J–109–56.	Full	Nomination of Samuel Alito, Jr., to be Associate Justice of The Supreme Court of the United States.
Serial No. J–109–58.	Full	An Examination of the Death Penalty in the United States.

Serial No. J–109–59.	Full	Wartime Executive Power and the National Security Agency's Surveillance Authority.
Serial No. J–109–60.	Imm/T&T ..	Federal Strategies to end Border Violence.
Serial No. J–109–61.	Full	Nomination of Thomas B. Griffith to be Circuit Judge for DC Circuit.
Serial No. J–109–62.	Full	Nomination of Timothy Elliott Flanigan to be Deputy Attorney General, Department of Justice.
Serial No. J–109–63.	Full	Defective Products: Will Criminal Penalties Ensure Corporate Accountability.
Serial No. J–109–64.	Con	What's in a Game? Regulation of Violent Video Games And the First Amendment.
Serial No. J–109–65.	AT	Hospital Group Purchasing: Are the Industry's Reforms Sufficient to Ensure Competition?
Serial No. J–109–66.	Full	An Examination of the Call to Censure the President.
Serial No. J–109–67.	Full	Immigration Litigation Reduction.
Serial No. J–109–68.	IP	Orphan Works: Proposals for a Legislative Solution.
Serial No. J–109–69.	Full	Immigration: Economic Impacts.
Serial No. J–109–70.	Full	Renewing the Temporary Provisions of the Voting Rights Act: An Introduction to the Evidence.
Serial No. J–109–71.	Full	Parity, Flatforms and Protection: The Future of the Music Industry in the Digital Radio Revolution.
Serial No. J–109–72.	Full	FBI Oversight.
Serial No. J–109–73.	Full	Nomination of Brett Kavanaugh to be Circuit Judge for the DC Circuit.
Serial No. J–109–74.	Full	An Introduction to the Expiring Provisions of the Voting Rights Act and Legal Issues Relating to Reauthorization.
Serial No. J–109–75.	Full	Modern Enforcement of the Voting Rights Act.
Serial No. J–109–76.	Full	Voting Rights Act: Understanding the Benefits and Costs of Section 5 Pre-Clearance.
Serial No. J–109–77.	Full	Voting Rights Act: The Continuing Need for Section 5 Pre-Clearance.
Serial No. J–109–78.	Full	Perspectives on Patents: Post-Grant Review Procedures and other Litigation Reforms.
Serial No. J–109–79.	Full/Field ..	Campus Crime: Compliance and Enforcement Under the Field Clery Act.
Serial No. J–109–80.	Con	The Consequences of Legalized Assisted Suicide and Euthanasia.
Serial No. J–109–81.	Full	Examining DOJ's Investigation of Journalists who Publish Classified Information: Lessons from the Jack Anderson Case.
Serial No. J–109–82.	Full	S.3274: the Fairness in Asbestos Injury Resolution Act of 2006.
Serial No. J–109–83.	Corr	The Findings and Recommendations of the Commission on Safety and Abuse in America's Prisons.
Serial No. J–109–84.	Full	Examining the continuing Need for Voting Rights Act Section 203's Provisions Regarding Bilingual Election Materials.
Serial No. J–109–85.	Full	Reconsidering our Communications Laws: Ensuring Competition and Innovation.
Serial No. J–109–86.	Full	The Analog Hole: can Congress Protect Copyright and Promote Innovation.
Serial No. J–109–87.	Imm	Immigration Enforcement at the Workplace: Learning From the Mistakes of 1986.
Serial No. J–109–88.	Con	Reauthorizing the Voting Rights Act's Temporary Provisions Policy Perspectives and Views from the Field.
Serial No. J–109–89.	Full	The McCarran-Ferguson Act: Implications of Repealing The Insurers' Antitrust Exemption.
Serial No. J–109–90.	AT	The AT&T and Bellsouth Merger: What does it mean for Consumers?
Serial No. J–109–91.	Admn	The Multidistrict Litigation Restoration Act.

Serial No. J–109–92.	Full	The Use of Presidential Signing Statements.
Serial No. J–109–93.	Full	Hedge Funds and Independent Analysts: How Independent Are their Relationships?
Serial No. J–109–94.	Full	Comprehensive Immigration Reform: Examining the Need For a Guest Worker Program.
Serial No. J–109–95.	Full	Humdan v. Rumsfeld: Establishing a Constitution Process.
Serial No. J–109–96.	Full	Nominations of William James Haynes II to be U.S. Circuit Judge for the Fourth Circuit;
Serial No. J–109–97.	Full	Examining the need for Comprehensive Immigration Reform.
Serial No. J–109–98.	Con	Renewing the Temporary Provisions of the Voting Rights Act: Legislative Options After.
Serial No. J–109–99.	Full	Department of Justice Overisght.
Serial No. J–109–100.	Full	Credit Card Interchange Fees: Anti-trust Concerns.
Serial No. J–109–101.	Full	FISA for the 21st Century.
Serial No. J–109–102.	T&T	Detecting Smuggled Nuclear Weapons.
Serial No. J–109–103.	Full	The Authority to Prosecute Terrorists Under the War Crime Provisions of Title 18.
Serial No. J–109–104.	Con	Paying Your Own Way: Creating a Fair Standard for Attorney's Fees Awards in Establishment Clause.
Serial No. J–109–105.	Imm	U.S. VISA Policy: Competition for International Scholars, Scientists, and Skilled Workers.
Serial No. J–109–106.	Full	Examining Competition in Group Health Care.
Serial No. J–109–107.	T&T	"Keeping Terrorists Off the Plane".
Serial No. J–109–108.	Full	The Thompson Memorandum's Effect on the Right to Counsel in Corporate Investigations.
Serial No. J–109–109.	Crime	Challenges Facing Today's Federal Prosecutors.
Serial No. J–109–110.	Full	The Cost of Crime: Understanding the Financial and Human Impact of Criminal Activity.
Serial No. J–109–111.	Full	Reporters' Privilege Legislation: Preserving Effective Federal Law Enforcement.
Serial No. J–109–112.	Full	Examining the Proposal to Restructure the Ninth Circuit.
Serial No. J–109–113.	Full	Examining Proposals to Limit Guantanamo Detainees' Access to Habeas Corpus Review.
Serial No. J–109–114.	Cor	Oversight of Federal Assistance for Prisoner Rehabilitation And Reentry in our States.
Serial No. J–109–115.	Full	Nomination of Michael Brunson Wallace, to be U.S. Circuit Judge for the Fifth Circuit.
Serial No. J–109–116.	Full	Fighting Crime: The Challenges facing local Law Enforcement and the Federal Role.
Serial No. J–109–117.	Full	Illegal Insider Trading: How Widespread is the Problem And is there Adequate Criminal Enforcement?
Serial No. J–109–118.	Imm	Oversight Hearing: U.S. Refugee Admissions and Policy.
Serial No. J–109–119.	Full	Competition in Sports Programming and Broadcasting: Are Consumers Winning?
Serial No. J–109–120.	Full	Oversight of the Civil Rights Division.
Serial No. J–109–121.	Full	Examining Enforcement of Criminal Insider Trading and Hedge Fund Activity.
Serial No. J–109–122.	Full	FBI Oversight.
Serial No. J–109–123.	Admn	Oversight of the Implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act.
Serial No. J–109–124.	Full	Vertically Integrated Sports Programming: Are Cable Companies Excluding Competition?
Serial No. J–109–125.	Full	Nomination of Paul J. McNulty, of Virginia, to be Deputy Attorney General, U.S. Department of Justice.

Senate Reports:		
Senate Report 109–014.	.....	The Class Action Fairness Act of 2005.
Senate Report 109–097.	.....	The Fairness in Asbestos Injury Resolution Act of 2005.
Senate Report 109–295.	.....	Fannie Lou Hamer, Rosa Parks, Coretta Scott King, and Cesar E. Chavez Voting Rights Act Reauthoization and Amendments Act of 2006.

VII. COMMITTEE STRUCTURE AND PROCEDURE

A. FULL COMMITTEE MEMBERSHIP

COMMITTEE ON THE JUDICIARY

ARLEN SPECTER, Pennsylvania, *Chairman*

ORRIN G. HATCH, Utah
CHARLES E. GRASSLEY, Iowa
JON KYL, Arizona
MIKE DEWINE, Ohio
JEFF SESSIONS, Alabama
LINDSEY GRAHAM, South Carolina
JOHN CORNYN, Texas
SAM BROWNBACK, Kansas
TOM COBURN, Oklahoma

PATRICK J. LEAHY, Vermont
EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, Jr., Delaware
HERBERT KOHL, Wisconsin
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin
CHARLES E. SCHUMER, New York
RICHARD J. DURBIN, Illinois

MICHAEL O'NEILL, *Chief Counsel and Staff Director*
BRUCE A. COHEN, *Democratic Chief Counsel and Staff Director*

B. SUBCOMMITTEE MEMBERSHIP

ADMINISTRATIVE OVERSIGHT AND THE COURTS

JEFF SESSIONS, Alabama, *Chairman*

ARLEN SPECTER, Pennsylvania
CHARLES E. GRASSLEY, Iowa
JON KYL, Arizona

CHARLES E. SCHUMER, New York
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CITIZENSHIP

JOHN CORNYN, Texas, *Chairman*

CHARLES E. GRASSLEY, Iowa
JON KYL, Arizona
MIKE DEWINE, Ohio
JEFF SESSIONS, Alabama
SAM BROWNBACK, Kansas
TOM COBURN, Oklahoma

EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, Jr., Delaware
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin
CHARLES E. SCHUMER, New York
RICHARD J. DURBIN, Illinois

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

ORRIN G. HATCH, Utah, *Chairman*

JON KYL, Arizona
MIKE DEWINE, Ohio
LINDSEY GRAHAM, South Carolina
JOHN CORNYN, Texas
SAM BROWNBACK, Kansas
TOM COBURN, Oklahoma

PATRICK J. LEAHY, Vermont
EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, Jr., Delaware
DIANNE FEINSTEIN, California
HERBERT KOHL, Wisconsin
RICHARD J. DURBIN, Illinois

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

SAM BROWNBACK, Kansas, *Chairman*

ARLEN SPECTER, Pennsylvania
LINDSEY GRAHAM, South Carolina
JOHN CORNYN, Texas
TOM COBURN, Oklahoma

RUSSELL D. FEINGOLD, Wisconsin
EDWARD M. KENNEDY, Massachusetts
DIANNE FEINSTEIN, California
RICHARD J. DURBIN, Illinois

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

MIKE DEWINE, Ohio, *Chairman*

ARLEN SPECTER, Pennsylvania
ORRIN G. HATHER, Utah
CHARLES E. GRASSLEY, Iowa
LINDSEY O. GRAHAM, South Carolina
SAM BROWNBACK, Kansas

HERBERT KOHL, Wisconsin
PATRICK J. LEAHY, Vermont
JOSEPH R. BIDEN, Jr., Delaware
RUSSELL D. FEINGOLD, Wisconsin
CHARLES E. SCHUMER, New York

SUBCOMMITTEE ON CORRECTIONS AND REHABILITATION

TOM COBURN, Oklahoma, *Chairman*

ARLEN SPECTER, Pennsylvania
JEFF SESSIONS, Alabama
JOHN CORNYN, Texas
SAM BROWNBACK, Kansas
RICHARD J. DURBIN, Illinois
PATRICK J. LEAHY, Vermont
JOSEPH R. BIDEN, Jr., Delaware
RUSSELL D. FEINGOLD, Wisconsin

SUBCOMMITTEE ON CRIME AND DRUGS

LINDSEY O. GRAHAM, Pennsylvania, *Chairman*

CHARLES E. GRASSLEY, Iowa
JON KYL, Arizona
MIKE DEWINE, Ohio
JEFF SESSIONS, Alabama
TOM COBURN, Oklahoma
JOSEPH R. BIDEN, Jr., Delaware
HERBERT KOHL, Wisconsin
DIANNE FEINSTEIN, California
RUSSELL D. FEINGOLD, Wisconsin
CHARLES E. SCHUMER, New York

SUBCOMMITTEE ON TERRORISM, TECHNOLOGY, AND HOMELAND SECURITY

JOHN KYL, Arizona, *Chairman*

ORRIN G. HATCH, Utah
CHARLES E. GRASSLEY, Iowa
JOHN CORNYN, Texas
MIKE DEWINE, Ohio
JEFF SESSIONS, Alabama
LINDSEY GRAHAM, South Carolina
DIANNE FEINSTEIN, California
EDWARD M. KENNEDY, Massachusetts
JOSEPH R. BIDEN, Jr., Delaware
HERBERT KOHL, Wisconsin
RUSSELL D. FEINGOLD, Wisconsin
RICHARD J. DURBIN, Illinois

C. JURISDICTION OF THE COMMITTEE

(To include S. Res. 445 from the 108th Congress)

Senate Rule XXVI

(l) Committee on the Judiciary, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Apportionment of Representatives.
2. Bankruptcy, mutiny, espionage, and counterfeiting.
3. Civil liberties.
4. Constitutional amendments.
5. Federal courts and judges.
6. Government information.
7. Holidays and celebrations.
8. Immigration and naturalization.
9. Interstate compacts generally.
10. Judicial proceedings, civil and criminal, generally.
11. Local courts in the territories and possessions.
12. Measures relating to claims against the United States.
13. National penitentiaries.
14. Patent Office.
15. Patents, copyrights, and trademarks.
16. Protection of trade and commerce against unlawful restraints and monopolies.
17. Revision and codification of the statutes of the United States.
18. State and territorial boundary lines.

S. RES. 445

108th CONGRESS

2d Session

S. RES. 445

To eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

IN THE SENATE OF THE UNITED STATES

October 1, 2004

Mr. LOTT submitted the following resolution; which was referred to the Committee on Rules and Administration

October 5, 2004

Reported by Mr. LOTT, without amendment

October 9, 2004

Considered, amended, and agreed to

RESOLUTION

To eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Resolved,

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

(1) Department of Homeland Security, except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center or the Secret Service; and

(B)(i) the United States Citizenship and Immigration Service; or

(ii) the immigration functions of the United States Customs and Border Protection or the United States Immigration and Custom Enforcement or the Directorate of Border and Transportation Security; and

(C) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

The jurisdiction of the Committee on Homeland Security and Governmental Affairs in this paragraph shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate: *Provided,* That the jurisdiction provided under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are—

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as "rescissions" and "deferrals";

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(e) OMB NOMINEES.—The Committee on the Budget and the Committee on Homeland Security and Governmental Affairs shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as "S. Res. 400") is amended by—

(1) inserting "(A)" after "(3)"; and

(2) inserting at the end the following:

"(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.'.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting "not to exceed" before "fifteen members";

(2) in paragraph (1)(E), by inserting "not to exceed" before "seven"; and

(3) in paragraph (2), by striking the second sentence and inserting "Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.".

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: "At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.".

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

"(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.".

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting ", but not less than quarterly," after "periodic".

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

"SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

"(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, in-

formation, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

"(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

"(d) Of the funds made available to the select Committee for personnel—

"(1) not more than 60 percent shall be under the control of the Chairman; and

"(2) not less than 40 percent shall be under the control of the Vice Chairman.".

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

"SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

"(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.".

(i) JURISDICTION.—Section 3(b) of S. Res. 400 is amended to read as follows:

"(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

"(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

"(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not the session.

"(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.".

(j) PUBLIC DISCLOSURE.—Section 8 of S. Res. 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "shall notify the President of such vote" and inserting "shall—

"(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

"(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.";

(B) in paragraph (2), by striking "transmitted to the President" and inserting "transmitted to the Majority Leader and the Minority Leader and the President"; and

(C) by amending paragraph (3) to read as follows:

"(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.".

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Committee on Appropriations shall reorganize into 13 subcommittees as soon as possible after the convening of the 109th Congress.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters, as determined by the Senate Committee on Appropriations.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

D. RULES OF THE COMMITTEE

(Adopted July 14, 2005)

I. MEETINGS OF THE COMMITTEE

1. Meetings of the Committee may be called by the Chairman as he may deem necessary on three days' notice of the date, time, place and subject matter of the meeting, or in the alternative with the consent of the Ranking Minority Member, or pursuant to the provision of the Standing Rules of the Senate, as amended.

2. Unless otherwise called pursuant to (1) of this section, Committee meetings shall take place promptly at 9:30 AM each Thursday the Senate is in session.

3. At the request of any Member, or by action of the Chairman, a bill, matter, or nomination on the agenda of the Committee may be held over until the next meeting of the Committee or for one week, whichever occurs later.

II. HEARINGS OF THE COMMITTEE

1. The Committee shall provide a public announcement of the date, time, place and subject matter of any hearing to be conducted by the Committee or any Subcommittee at least seven calendar days prior to the commencement of that hearing, unless the Chairman with the consent of the Ranking Minority Member determines that good cause exists to begin such hearing at an earlier date. Witnesses shall provide a written statement of their testimony and curriculum vitae to the Committee at least 24 hours preceding the hearing testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

2. In the event 14 calendar days' notice of a hearing has been made, any witness appearing before the Committee, including any witness representing a Government agency, must file with the Committee at least 48 hours preceding her appearance a written statement of her testimony and curriculum vitae in as many copies as the Chairman of the Committee or Subcommittee prescribes. In the event the witness fails to file a written statement in accordance with this rule, the Chairman may permit the witness to testify, or

deny the witness the privilege of testifying before the Committee, or permit the witness to testify in response to questions from Senators without the benefit of giving an opening statement.

III. QUORUMS

1. One-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of discussing business. Eight members of the Committee, including at least two members of the minority, must be present to transact business. No bill, matter, or nomination shall be ordered reported from the Committee, however, unless a majority of the Committee is actually present at the time such action is taken and a majority of those present support the action taken.

2. For the purpose of taking sworn testimony, a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

IV. BRINGING A MATTER TO A VOTE

1. The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote. If there is objection to bring the matter to a vote without further debate, a roll call vote of the Committee shall be taken, and debate shall be terminated if the motion to bring the matter to a vote without further debate passes with ten votes in the affirmative, one of which must be cast by the minority.

V. AMENDMENTS

1. Provided at least seven calendar days' notice of the agenda is given, and the text of the proposed bill or resolution has been made available at least seven calendar days in advance, it shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless such amendment has been delivered to the office of the Committee and circulated via e-mail to each of the offices by at least 5:00 PM the day prior to the scheduled start of the meeting.

2. It shall be in order, without prior notice, for a Member to offer a motion to strike a single section of any bill, resolution, or amendment under consideration.

3. The time limit imposed on the filing of amendments shall apply to no more than three bills identified by the Chairman and included on the Committee's legislative agenda.

4. This section of the rule may be waived by agreement of the Chairman and the Ranking Minority Member.

VI. PROXY VOTING

1. When a recorded vote is taken in the Committee on any bill, resolution, amendment, or any other question, a quorum being present, a Member who is unable to attend the meeting may submit her vote by proxy, in writing or by telephone, or through personal instructions. A proxy must be specific with respect to the matters it addresses and may not be counted either in reporting a

matter, bill, or nomination to the floor, or in preventing any of the same from being reported to the floor.

VII. SUBCOMMITTEES

1. Any Member of the Committee may sit with any Subcommittee during its hearings or any other meeting, but shall not have the authority to vote on any matter before the Subcommittee unless she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the Subcommittee chairmanship and seniority on the particular Subcommittee shall not necessarily apply.

3. Except for matters retained at the full Committee, matters shall be referred to the appropriate Subcommittee or Subcommittees by the Chairman, except as agreed by a majority vote of the Committee or by the agreement of the Chairman and the Ranking Minority Member.

4. Provided all Members of the Subcommittee consent, a bill or other matter may be polled out of the Subcommittee. In order to be polled out of a Subcommittee, a majority of the Members of the Subcommittee who vote, must vote in favor of reporting the bill or matter to the Committee.

VIII. ATTENDANCE RULES

1. Official attendance at all Committee markups and executive sessions of the Committee shall be kept by the Committee Clerk. Official attendance at all Subcommittee markups and executive sessions shall be kept by the Subcommittee Clerk.

2. Official attendance at all hearings shall be kept, provided that Senators are notified by the Committee Chairman and Ranking Minority Member, in the case of Committee hearings, and by the Subcommittee Chairman and Ranking Minority Member, in the case of Subcommittee hearings, 48 hours in advance of the hearing that attendance will be taken; otherwise, no attendance will be taken. Attendance at all hearings is encouraged.

○