

DEPARTMENT OF JUSTICE FY 2011 BUDGET HEARING
OPENING STATEMENT

March 16, 2010

Alan B. Mollohan, Chairman

Welcome to this afternoon's hearing on the Department of Justice and its fiscal year 2011 budget request. Our witness is the Honorable Eric Holder, Attorney General. Thank you for appearing today; we appreciate your time.

I would like to start off by recognizing just a few of the numerous positive developments we have seen at DOJ over the last year. Under your leadership, the Department has shown a renewed commitment to its criminal enforcement missions, including international organized crime, drug trafficking and civil rights. You have placed a new emphasis on funding effective state and local grant programs, including the COPS hiring program which saved or created nearly 5,000 jobs through stimulus funding provided by this Committee last year. We've also seen a new and fairly comprehensive commitment by DOJ to begin addressing the truly deplorable law enforcement situation in Indian Country. This commitment is reflected in your budget request, which has Indian Country increases almost across the board, and we certainly welcome that as we initiated such investments in this very committee last year. Finally, I have been pleased to see that violent crime rates have continued to decrease over the past two years despite significant economic distress that seemed likely to produce the opposite result. To the extent that DOJ is a national law

enforcement leader, you share in that success along with your State and local partners.

While we enjoy and appreciate these successes, the Department also has its share of challenges. One of the most visible of these challenges is the enormous and growing workload of white collar crime cases. Your current load of mortgage, securities and government fraud cases covers billions and billions of dollars of realized losses, and you have only just started to scratch the surface. Another looming issue is the burgeoning Federal inmate population, which is increasingly outstripping the capacity of the prison system. But perhaps you have had no greater challenge since arriving at DOJ than working to fulfill the President's commitment to close the detention facilities at Guantanamo Bay.

The process of closing Guantanamo actually began under President Bush. He worked to reduce the detainee population by more than 500 detainees, all without involvement or politicization by the Congress and without any publically discernable process for choosing whom to release and under what terms.

This Administration replaced that ad hoc system with a formalized, consistent process for reviewing each detainee and determining the safest, most appropriate disposition for him. Your system ensures that the government's military, intelligence, law enforcement, homeland security and diplomatic communities have reviewed each case and come to agreement on each outcome. I think having such a system that we can sit here and discuss today (in a way that we never could have with the ad hoc

process run by the prior administration) is an achievement in its own right. While reasonable people might disagree about some of the specific outcomes your system produced, I don't think anyone should dispute that the system itself was well reasoned and had integrity.

Your process ultimately produced recommendations to bring a small number of Guantanamo detainees here to the US for prosecution. Those recommendations have generated an enormous amount of debate and engendered an entrenched opposition that would like to limit detainee prosecutions exclusively to the military commission system.

I support the reformed military commission process and believe that there are times when a commission may be the only appropriate venue, based on considerations like admissibility of evidence or the need to protect intelligence sources and methods. But, there are equally valid reasons why an Article III, or civilian, court may be just as necessary. Article III trials can be significantly shorter, given their broader authority to accept guilty pleas. Some of our allies will not cooperate with our prosecution efforts outside of the civilian system. Some cases present legal or operational issues that require the accumulated legal precedents and rules of courtroom procedure that have developed over hundreds of years in the Article III courts. These are things that the relatively new military commission system, no matter how valuable, simply cannot provide right now.

For these reasons, I think it would be a mistake to categorically deny you access to the civilian system, especially in light of its established track record of success in terrorism prosecutions. Let's not forget that the Article

III system has safely and effectively tried and convicted hundreds of terrorists. Today, there are more than 300 international or domestic terrorists incarcerated in civilian prison facilities. The military commission system, by way of comparison, has produced 3 convictions, 2 of which came from guilty pleas. The results speak for themselves. Former officials from the last administration also support the civilian trial option and believe that precluding civilian trials out of hand is a dangerous proposal. The decision about whether to try a case in a civilian court is best left to the Department of Justice to determine, void of politics, just as was done in the previous administration.

I am sure that we will be discussing these issues in detail throughout the afternoon. There is also a lot of interest on all sides about the final venue determination for the 9/11 trials, which I understand is still under consideration. We really can't discuss the merits of the venue until it has been determined, but I would like to give you an opportunity to explain to us the underlying criteria that are being used to make venue determinations for Article III cases so that we can understand the considerations and constraints that are involved in that process.

In just a moment we will have you provide an oral summary of your testimony. Your written statement will be made part of the record. Before we do that, however, I would like to turn to the Subcommittee's ranking member, Mr. Wolf, for any opening remarks he would like to make.