

Testimony of
Michael Mukasey

July 9, 2008

STATEMENT OF
THE HONORABLE MICHAEL B. MUKASEY
ATTORNEY GENERAL UNITED STATES DEPARTMENT OF JUSTICE
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
CONCERNING
"OVERSIGHT OF THE U.S. DEPARTMENT OF JUSTICE"
PRESENTED

July 9, 2008

I appreciate the opportunity to come before you today to talk about the work of the men and women of the Department of Justice.

I have now been Attorney General for almost eight months, and there is slightly less than seven months remaining in this Administration. As I move into the second half of my service, I would like to outline my priorities during the time I have left, and to review our progress in the five areas on which I have primarily focused so far.

As I indicated six months ago to this Committee, I am confident in relying on the talented, committed, and dedicated professionals at the Justice Department and I take great pride in them. During the last six months, I have been privileged to become better acquainted with these fine men and women and with the great work that they do. I deeply appreciate their resolute service to our Nation.

Mr. Chairman, I also appreciate the steps the Committee has taken in the past months to confirm several of the Department's officials, including Judge Mark Filip and Kevin O'Connor, who have been

-serving as Deputy Attorney General and Associate Attorney General, respectively; Beth Cook, our Assistant Attorney General for Legal Policy; and Greg Katsas, Assistant Attorney General for the Civil Division.

At the outset, I would like to outline two areas where I plan to focus my attention during my remaining time at the Department of Justice. First, the election season is upon us, and it is critical that the Department make every effort to assist state and local governments in ensuring that the November elections run as smoothly as possible and that the American people have the utmost confidence in our electoral process. The Department is providing training to the lawyers and investigators who will be most responsible for those efforts. Just last week, for example, the Department held its seventh annual Ballot Access and Voting Integrity conference at the National Advocacy Center in Columbia, South Carolina.

I spoke to the lawyers and agents in attendance about the importance of their work - of safeguarding the voting rights of all who are entitled to vote and of ensuring that those votes are not undermined or diluted by fraud or corruption. And I stressed the necessity of pursuing these cases according to what the law and facts require, and not based on partisan or political considerations.

The Department has primary responsibility for safeguarding the voting rights of all who are entitled to participate in elections. Through vigorous enforcement of the Voting Rights Act--one of the most important and most successful pieces of civil rights legislation in our history--the Department ensures that Americans of all races and colors as well as language minorities are able to participate effectively in the political process. Through other statutes--like the Uniformed and Overseas Citizens Absentee Voting Act, the Help America Vote Act and the National Voter Registration Act--the Department protects the vote of others in our society whose needs deserve particular attention.

The Department also helps guarantee the integrity of our elections through criminal laws combating voter fraud. In recent years, some have tried to suggest a conflict between protecting voting rights and combating voter fraud. But those are really two sides of the same coin. If some of our citizens are denied their right to vote, that is a form of voter fraud, in the sense that the outcome of the election will not accurately reflect the popular will. If some voters engage in fraud, and either vote when they are not entitled to, or vote more than once, that dilutes the voting rights of all legitimate voters. Both protecting voting rights and combating voter fraud are essential to maintaining the confidence of all Americans in our system of government.

Through outreach and monitoring, the Department intends to maintain a significant presence throughout the election season. We will work closely with civil rights groups and state and local elections officials to identify and solve problems in a timely and appropriate fashion. We will publicize telephone numbers, websites and other means through which interested citizens can bring potential

issues to our attention. The Department, in conjunction with the Office of Personnel Management, has already deployed hundreds of federal observers and monitors to locations around the country in 2008 and we will continue our monitoring efforts on Election Day, focusing on areas where there are potential civil rights violations and jurisdictions where we have ongoing consent decrees. Our goal is to make sure that any complaints are dealt with promptly and appropriately, and to make our presence felt so that the American people can continue to have confidence in our system of government.

Second, once the November elections are over, there will be the vitally important task of ensuring an orderly and safe transition to a new Administration. As part of that transition, we will take every step to ensure a smooth transfer of custody and responsibility for our Nation's security to a new set of caretakers. One of my most solemn duties is to turn over responsibility for running the Department of Justice to the next Attorney General and to be able to say to him or to her that we have in place the tools necessary to keep the country safe.

This will be the first transition to a new Administration since September 11, 2001, and we know that those who helped perpetrate the outrage committed against us that day, and those who support and sympathize with their cause, will be watching for division within our country and for opportunities to attack. In the same way that some of the hijackers took practice flights prior to September 11th to assess airline security measures, so too others will be evaluating the strength of our national security during the transition to a new Administration. I am committed to making sure that, on January 20th, their analysis will be that our system is too strong to give them reason for hope.

This commitment will take effort and focus by everyone at the Department of Justice. Ensuring a smooth transition will require not only serious thought about the big picture, but also a serious focus on the details that make up that big picture. We must ensure that all of our country's security measures are attuned to the increased risk we face during this time of transition, and that we respond and adjust appropriately. We also must emphasize to the Department's employees that, although these months are a time of great anticipation, all of their considerable talents must be focused on the task at hand. And finally, we will have to make sure that the right personnel are in the right positions at the right times. In short, we must focus on every task, no matter how large or how small, if we are going to show that, although we have a two-party political system in the United States, we are one nation. And that this nation stands together when needed, especially in times of transition or times of crisis.

It is also important that we do everything we can to give our national security professionals, who will be confronting the Al Qaeda threat in this Administration and the next, the tools they need to keep us safe. Nothing is more important in that regard than the effort to reform and update the Foreign Intelligence Surveillance Act. The ability to intercept and to analyze the electronic communications of our country's enemies is the best defensive weapon we have, and I appreciate all the efforts of the members of this Committee and your colleagues in the Senate in this regard.

We are also working to complete the post-September 11th transformation of the Department's institutional structure. After the September 11th attacks, and on the recommendation of two commissions that looked into the matter, the Department undertook two major reorganizations. One was the creation of the National Security Division, which placed within one division, and in a single chain of command, the Department's counterterrorism and counterespionage prosecutors and the intelligence lawyers who represent the government before the Foreign Intelligence Surveillance Court. The second was the establishment of the National Security Branch within the Federal Bureau of Investigation, which was created to provide an organizational structure to help manage the Bureau's transformation from solely an elite law enforcement agency, into an agency with a principal mission to detect and prevent terrorist attacks.

The National Security Division and the National Security Branch are each less than three years old, and, as you would expect, the transformation of the Department's national security structure requires more than a change on an organizational chart; it requires sustained commitment to developing the management, personnel, and processes necessary to make these reorganizations successful. This effort is particularly important at the Federal Bureau of Investigation, which has worked hard to become a world-class intelligence agency. That goal involves developing new ways to recruit, train, and provide career paths for those who wish to devote their careers in the Bureau to intelligence collection and analysis, as opposed to the Bureau's more traditional law enforcement activities. The Director is committed to continuing this progress, and I have been doing what I can to support him in this effort. One topic that I am exploring is whether the various sets of Attorney General guidelines governing the FBI's investigative activities can be consolidated and harmonized, so that the Bureau's operators have clearer and more consistent rules governing how they conduct national security and criminal investigations.

I would like to devote the remainder of my statement to providing updates on the Department's efforts and accomplishments in the last six months in the five critical areas I identified in January 2008: national security, violent crime, civil rights, public corruption, and immigration and border security.

National Security

Although I believe we have made progress in each of these areas, national security stands apart as an area of particular focus for me. Continuing to work to improve the effectiveness of our national security capabilities--particularly as we approach our Nation's first post-9/11 transition--will be one of the most important tasks I have going forward.

Each morning, I receive a classified briefing on all of the terrorist threats our Nation faces around the globe. These briefings are simultaneously sobering and alarming, and the plots we hear about each day are both creative and deadly. We face an enemy with a presence, literally, in every part of the globe; yet

an enemy who, in many places, is virtually undetectable. Because of that, it is critical that we get timely intelligence of our adversaries' capabilities and intentions.

The Department has had important national security successes in recent months. For example, on June 13, 2008, a jury in the Northern District of Ohio convicted three Ohio residents, Mohammad Amawi, Marwan El-Hindi and Wassim Mazloum, of conspiracy to provide material support to terrorists and conspiracy to commit terrorist acts against Americans overseas, including U.S. soldiers in Iraq. On June 3, 2008, another Ohio resident, Christopher Paul, pleaded guilty in the Southern District of Ohio to conspiracy to use explosive devices against targets in the United States and Europe. At his plea hearing, Paul admitted that he joined al-Qaeda in the early 1990s, later fought in Afghanistan and Bosnia, and ultimately conspired with a German terror cell to bomb targets in the United States and abroad. These prosecutions highlight the important role that the material support statutes play in the Department's effort to address terrorism and preparation for terrorist attacks across the spectrum of threats.

In recent months, I have spent considerable time maintaining and building upon our law enforcement and counterterrorism relationships with our overseas partners and allies. Because these efforts are of great importance, I would like to elaborate on what the Department has been doing in this area. In March 2008, I participated in the Justice and Home Affairs Ministerial between officials from the European Union and the United States. We discussed issues ranging from terrorist recruitment and radicalization, to plans to share information to combat terrorists, to an increased focus on international organized crime. We also discussed ways to share best practices and further benefit from the work of our respective law enforcement and disaster response agencies, by, for example, exchanging information on how we might respond to potential chemical or biological attacks.

Also in March 2008, I met with German officials in Berlin for the initialing of a bilateral agreement between Germany and the United States that permits access to biometric data and spontaneous sharing of data about known and suspected terrorists.

This is a great achievement, both for its practical benefits and for what it symbolizes. This agreement gives us an important new tool to combat terrorism and to fight transnational crime. Each of our countries will have access to the criminal fingerprint databases of the other--in the first instance simply to determine on a yes or no basis if there is evidence in those databases that could be helpful in criminal investigations and prosecutions. If such evidence is located, the agreement also sets forth procedures for obtaining it through lawful processes that also ensure appropriate protection for personal data. In addition, the agreement provides a mechanism for sharing information about known and suspected terrorists, so we can prevent them from entering our countries and attacking our people. But beyond the important practical value of this agreement, it symbolizes the joint resolve of Germany and the United States to fight terrorism and transnational crime.

In addition to building on established law enforcement relationships, the Department has focused on our efforts to build the law enforcement capacity of emerging overseas partners. Recently I was in Asia-- Thailand, Indonesia, and finally in Japan, which hosted the G8 Justice and Home Affairs Ministerial-- meeting with representatives of law enforcement and with the American officials working to maintain the cooperation between our countries on legal matters. I had the opportunity to see first-hand the highly successful capacity-building programs the Justice Department has underway in Indonesia. With vital funding and programmatic and policy support from the State Department, and with the active cooperation of State Department personnel, we have placed an experienced U.S. federal prosecutor in Jakarta to work with the Indonesian Attorney General's Terrorism and Transnational Crime Task Force, and to develop a new Anti-Corruption Task Force; and we have in place a Senior Law Enforcement Advisor, who--with 44 staff members--leads more than a dozen law enforcement programs with the Indonesian National Police, on topics ranging from national training reform, to forensic analysis, to specialized investigative techniques for combating human trafficking, intellectual property violations, and maritime crime.

The results of this law enforcement partnership with Indonesia have been remarkable: among other accomplishments, the units we have worked with have secured more than 40 convictions of terrorists, made one of the largest single seizures of counterfeit pharmaceuticals ever, and helped secure the strategic waters surrounding Indonesia, which were plagued by piracy and smuggling.

Indonesia is only one of more than 60 countries in which the Department of Justice is engaged in overseas rule of law work. We are working with foreign governments around the world to develop professional and accountable law enforcement institutions that protect human rights, combat corruption, and reduce the threat of transnational crime and terrorism. We do this both through the overseas work of our law enforcement agencies - including the FBI, DEA, USMS, and ATF - and through our specialized international prosecutorial and police development offices, the Office of Overseas Prosecutorial Development, Assistance and Training, known by its acronym OPDAT, and the International Criminal Investigative Training Assistance Program, known as ICITAP.

With funding from and in coordination with the State Department, those two programs place federal prosecutorial and police experts in host countries for long-term assignments designed to focus on the comprehensive development of all pillars of the criminal justice system. Having had the chance myself to see these programs in action in Indonesia, Iraq, Turkey, and Thailand, and having met with my counterparts from Colombia and other countries where these programs are in place, I can tell you that this is some of the most important work that the Department does. By building the capacity of our overseas law enforcement partners to fight terrorism and transnational crime within the rule of law, we increase the safety not only of their citizens, but of our own as well.

Let me now address the Supreme Court's recent decision in *Boumediene*, which represents a quite significant challenge that the Department will have to manage over the remainder of my tenure as

Attorney General. We are disappointed with the outcome of the case. In the Detainee Treatment Act, Congress and the President had established quite reasonable procedures to allow the U.S. Court of Appeals for the D.C. Circuit to review the detention of the enemy combatants at Guantanamo Bay, and those procedures went well beyond what the United States had provided to its enemies in any past conflict. The majority opinion in *Boumediene* conceded that aliens detained outside the country had never received the benefit of a writ of habeas corpus, yet the Court concluded that the unique circumstances prevailing at Guantanamo Bay justified an extension of the writ to aliens detained at that facility. The Court's decision adds substantially to the burdens that the Department of Justice--and others--will face in defending potentially hundreds of lawsuits in federal district court, and I think that it is fair to say that the decision raises far more questions about that litigation than it answers. Right now, we are studying those questions, and I hope that we will be able to help the courts, and/or Congress, provide some of the answers in the coming months.

Violent Crime

Violent crime remains near historic lows in the United States, in large part because of the hard work of our state and local partners, but also as a result of federal, state and local law enforcement partnerships developed through initiatives such as Project Safe Neighborhoods. Under Project Safe Neighborhoods, federal prosecutors and law enforcement focus their resources on the most serious violent offenders, taking them off the streets and placing them behind bars where they cannot re-offend.

At the end of January 2008, the Department launched the Project Safe Neighborhoods Anti-Gang Training in Chapel Hill, North Carolina. The training program was attended by more than 550 participants from North Carolina and South Carolina, including law enforcement officers, prosecutors, and prevention and re-entry representatives. The goal of the program is to increase the level of knowledge, communication, and collaboration involved in addressing the criminal gangs preying upon communities throughout the nation.

The training program's courses are comprehensive and include gang-related prevention, enforcement, prison re-entry programs, and an executive session designed for law enforcement executives. The training assists state and local jurisdictions in the collection, analysis, and exchange of information on gang-related demographics, legislation, literature, research, and promising program strategies. The training helps state and local law enforcement and criminal justice agencies learn how to recognize and identify gang presence in a community.

This training will be offered regionally throughout the United States in 2008 and 2009. Besides Chapel Hill, the program has been held thus far in Nashville, Tennessee; Oklahoma City, Oklahoma; Birmingham, Alabama; and Salt Lake City, Utah. Future training sites include Chicago, Illinois; Spokane, Washington; Rochester, New York; Sacramento, California; and Mesa, Arizona.

The Department is also making great strides in combating gangs with international operations. In June 2008, a federal grand jury in Charlotte, North Carolina, indicted 26 members of the violent gang known as MS-13 on charges of federal racketeering and related crimes in the United States and El Salvador. The indictment alleges, among other things, that the gang members formed a drug trafficking conspiracy, distributed narcotics, committed robberies, illegally possessed firearms, committed acts of violence and extortion, and intimidated witnesses and obstructed justice.

This indictment results, in part, from a series of comprehensive anti-gang initiatives undertaken jointly by the Justice Department and national police of El Salvador, known as the PNC. For example, last year we created a joint FBI and PNC Transnational Anti-Gang center - the so-called "TAG" center - posting experienced anti-gang FBI agents in El Salvador alongside PNC officers, analysts and prosecutors to combat transnational gang activity.

Supplementing the TAG center, the FBI's Central American Fingerprint Exchange initiative operates to assist El Salvador and other Central American countries in identifying, tracking, and apprehending gang members. And through the International Law Enforcement Academy in El Salvador, we have provided crucial anti-gang training to law enforcement officers and prosecutors from El Salvador and from other countries throughout the region.

This high level international commitment to fighting back against transnational gangs was also evident in the meeting I presided at two months ago in Washington, D.C., of the justice ministers of Central America and Mexico. Combating gangs was a significant focus of that meeting. And following on that meeting, we are looking for ways to expand further our partnerships and efforts throughout the region.

These international initiatives benefit from the efforts of our Criminal Division's Gang Squad, federal prosecutors in our U.S. Attorneys' offices, and the FBI's MS-13 National Gang Task Force. They also benefit from the pair of anti-gang centers that recently opened their new joint headquarters in Virginia: the National Gang Intelligence Center and the National Gang Targeting, Enforcement & Coordination Center, the task force known as "GangTECC."

The Department is also responding to the threat of international organized crime, a hybrid criminal problem that implicates three of the Department's national priorities: national security, violent crime, and public corruption. It needs a coordinated response and an openness to new ways of doing business. It also demands that we work closely with our foreign colleagues in order to dismantle global criminal syndicates. In short, this is about more than the Department of Justice. It involves our law enforcement and non-law enforcement colleagues at the Departments of Homeland Security, State, Treasury, and Labor, the U.S. Postal Service, as well as the intelligence community.

The Attorney General's Organized Crime Council, which met in March 2008 for the first time since 1993, will have a leading role in coordinating that effort. It is actively engaged in identifying the most serious threats, and in developing strategies to combat them. In April, I met with the Council and approved a Law Enforcement Strategy to Combat International Organized Crime. The strategy is an important part of this Administration's ongoing coordinated commitment to safeguard our national security from transnational threats. The strategy places its highest priority on those groups that threaten our national security, the stability of our economy, and the integrity of government institutions, infrastructure, and systems in the United States. Let me describe the strategy, which we've already begun to implement; the threats we face; and some of the recent successes we have had against international organized crime outfits.

First, we have to target the biggest organized crime threats, just as we've done successfully in targeting the worst transnational drug cartels. We will develop a high-priority list of people and organizations that pose the greatest threat, and then focus our resources on them.

Second, we have to marshal information from all available sources--law enforcement, the intelligence community, foreign partners, and the private sector--so we can identify and draw connections among the groups.

Third, we have to use every means and agency at our disposal--whether it is the Secret Service to identify counterfeit currency, the IRS to locate financial assets, or the Bureau of Alcohol, Tobacco, Firearms and Explosives to find contraband weapons. That means we will be increasing the information we provide to the State Department to support their programs to deny visas to criminals, and to the Treasury Department to support their sanctions programs that target money laundering. It also means we will step up what we are already doing with our international partners to get these criminals wherever they hide. Criminals have no regard for international borders, so we're making sure those borders do not pose an obstacle to effective enforcement.

Fourth, we have to develop aggressive strategies for dismantling entire criminal organizations and removing their leadership. We have more than 120 prosecutors, and the FBI has more than 500 agents and analysts, dedicated to fighting organized crime. These professionals are skilled in using techniques originally developed to fight La Cosa Nostra and other domestic threats. We're going to capitalize on that expertise in our global fight.

As I said earlier, the assessment contained in the Law Enforcement Strategy describes the most important threats in the global battle against organized crime. The first threat we identified was that international organized criminals control significant positions in the global energy and strategic

materials markets. They are expanding their holdings in these sectors, which corrupts the normal functioning of these markets and may have a destabilizing effect on U.S. geopolitical interests. A prime example of an international organized criminal in this area is Semion Mogilevich--also known as the "Brainy Don"--and several members of his criminal organization whom the United States charged in a 45-count racketeering indictment in 2003. According to published reports, even after the indictment, Mogilevich continued to expand his criminal empire in a new direction. He was said to exert influence over large portions of the natural gas industry in parts of what used to be the Soviet Union. The arrest of Mogilevich by Russian police in January 2008 is a positive sign. But we continue to monitor the growth of organized crime and its penetration into some of these markets with great concern.

When I use the term "international organized criminal," I do not mean to suggest that these are only foreign citizens, or to place blame for the problem on other nations. I am referring to the globalization of crime and to groups with members and associates around the world, including here in the United States.

A second threat we identified was the logistical and other support that organized crime provides to terrorists, foreign intelligence services, and foreign governments that may be targeting the United States or otherwise acting against our interests. In March 2008, a complaint was unsealed against Viktor Bout, a notorious international arms trafficker. Bout, who has since been indicted, is charged with conspiring to sell millions of dollars worth of weapons to the Revolutionary Armed Forces of Colombia, known as FARC -- a designated foreign terrorist organization. The complaint alleges that Bout, along with an accomplice, agreed to sell the FARC 100 surface-to-air missiles, as well as launchers for armor-piercing rockets. Luckily, in this instance, the individuals holding themselves out to be members of the FARC were actually confidential sources working with the Justice Department. As this example makes clear, although these criminals are not motivated by ideology, when the price is right, they are more than willing to help the people who are motivated by ideology.

Another set of recent cases illustrates a third threat--from international organized criminals who smuggle and traffic people and contraband into the country. Together, Operation Royal Charm in New Jersey and Operation Smoking Dragon in Los Angeles uncovered an extensive Asian criminal enterprise that was smuggling nearly every form of contraband imaginable. These investigations resulted in the indictment of 87 people who smuggled goods into the United States by using shipping containers with bills of lading that falsely identified the contents as toys and furniture from China. Instead of toys, the smugglers were bringing in millions of dollars worth of high quality counterfeit \$100 bills as well as counterfeit pharmaceuticals and cigarettes, and illicit drugs including ecstasy and methamphetamine. Two of the defendants entered into a deal with undercover agents to provide various weapons, including hundreds of shoulder-fired rockets capable of shooting down airplanes.

A fourth threat involves the ways organized crime exploits the U.S. and international financial systems to move illicit funds. These groups are run like global corporations; they use sophisticated financial

operations. They may exploit legitimate banking systems here and abroad to launder money, or engage in other financial crimes like insurance fraud. And over the past several years we have seen cases where U.S. shell companies were established and used for global money laundering schemes in Russia, Latvia, the U.S., and other countries. The criminals operating these schemes are willing to move money for anyone who needs to hide the source, ownership, or destination of the funds--no questions asked. They utilize corrupt banking officials and exploit lax anti-money-laundering protections around the world to inject illicit funds into the global money stream. By all estimates, such schemes move billions of dollars every year through U.S. financial institutions.

A good example is the case of Garri Grigorian, a Russian national living in the United States who helped launder more than \$130 million on behalf of the Moscow-based Intellect Bank and its customers, through bank accounts in Sandy, Utah. Grigorian and his co-conspirators set up three U.S. shell companies, and then set up bank accounts for those companies in Utah and New York. The companies never did any business; they existed only to create the illusion that transactions to and from their bank accounts were legitimate trade. Once those accounts were set up, Intellect Bank could use them for U.S. dollar wire transfers on behalf of their clients. In total there were more than 5,000 of these wire transfers in a little more than two years. For his crimes, Grigorian was sentenced to 51 months in prison and ordered to pay \$17 million in restitution.

As we tighten up our banking regulations to fight this type of crime, criminals have developed more complex schemes and turned increasingly to offshore jurisdictions with less rigorous requirements, but with the same access to our banking systems. Identifying the danger is crucial. Yet another threat is the way international organized criminals use cyberspace to target U.S. victims and infrastructure. The internet is a boon to organized crime--it's anonymous, largely untraceable, and can provide instant communication for a far-flung network of crooks.

Criminals need only sit back and wait for entrepreneurs to come up with legitimate new uses for the internet, which they can then corrupt. For instance, technology in the past few years has created brand new avenues for money laundering with the proliferation of so-called "virtual-world" games like Second Life, and with mobile payment systems.

A number of recent cyber investigations in the United States--involving everything from fraudulent eBay auctions to so-called phishing schemes responsible for large-scale identity theft--have traced the perpetrators back to Romania, long considered to be a main source of electronic crime. Close cooperation between the Department, the FBI, and Romanian authorities has revealed a troubling phenomenon.

Traditional Romanian organized crime figures--who previously were involved in offenses like drug smuggling, human trafficking, and extortion--have joined forces with other criminals to bring some

young computer hackers under their control, and have organized them into cells based on their cyber-crime specialty.

Fortunately, Romanian officials are taking these developments seriously, and last November they arrested eleven of their citizens who were part of a ring that perpetrated these phishing schemes. The criminals got personal data from computer users, imprinted credit and debit card information onto counterfeit cards, and then used those cards to obtain cash from ATMs and Western Union locations. Romanian police executed 21 search warrants and seized computers, card reading and writing devices, blank cards, and other equipment.

Other threats identified in our assessment include manipulation of securities markets; corruption of public officials, globally; and use of violence as a basis for power. These are the hallmarks of international organized crime in the 21st century. That is what we are up against. As you can see, organized crime has become a lot more complex and diversified since the days of Robert Kennedy.

The Department has likewise made great strides to combat the online abuse and exploitation of children, especially child pornography, through Project Safe Childhood. Let there be no mistake, child pornography--an inapt term to describe images of child sexual abuse--is a violent crime. This crime violates not just the bodies of children, it

takes a piece of their soul; even where the abuse has ended, the images continue to be exchanged like trading cards among those who harbor sexual interest in children. Through PSC, the Department has effectively marshaled federal law enforcement and our state and local partners, with the assistance of non-governmental organizations like the National Center for Missing and Exploited Children, to dramatically increase the number of investigations and prosecutions.

In early May 2008, Deputy Attorney General Filip announced the distribution of \$5 million in new funds to support Project Safe Childhood. The money was used to fund 43 new Assistant U.S. Attorney positions across the nation to prosecute these offenses. The positions were awarded on a competitive basis among the many districts with demonstrated records of successfully prosecuting sexual crimes against children, with no district awarded more than one new position. With these new prosecutors, we expect to continue building on our successes in this area.

Preventing crimes against children and convicting those who commit them are not sufficient without also managing and monitoring sex offenders in free society. Through the Adam Walsh Act the Department has been give new authorities and responsibilities to shore up this final piece of the effort to keep our children safe. The just-released Sex Offender Registration and Notification Act (SORNA) guidelines, which establish a baseline for states and tribes to maintain and share information about sex offenders, is a giant step forward. The creation of the failure to register violation at 18 U.S.C. Section

2250, and the expanded jurisdiction of the U.S. Marshals to enforce it, likewise add to public safety. We appreciate the additional resources Congress has provided to combat this crime with more prosecutors and support for the U.S. Marshals to enforce the Adam Walsh Act.

Civil Rights

In this very important election year, the Civil Rights Division has been vigorous in its enforcement efforts. The Justice Department, through the Civil Rights Division, has primary responsibility for safeguarding the voting rights of all who are entitled to vote. Congress has given us various tools with which to do that work, and we are using all of them. Chief among them, of course, is the Voting Rights Act of 1965, one of the most important and most successful pieces of civil rights legislation in our country's history. Little more than a month ago, the Department won a major victory in court defending the constitutionality of Congress's 2006 reauthorization of that Act, which remains the basis for much of our work today.

Since I have last appeared before this Committee, the Civil Rights Division has settled two important cases under Section 2 of the Voting Rights Act. In March 2008, the Justice Department settled a lawsuit against the Georgetown County, South Carolina Board of Education. The complaint alleged that the at-large method of electing school board members violated Section 2 of the Voting Rights Act of 1965 because it diluted the voting strength of African-American voters in Georgetown County. While African-American citizens comprise approximately 38 percent of the population of Georgetown

County, the current school board is all white and no African-American candidates have won a school board election during the last three election cycles.

Under the consent decree, in three single-member districts, African American citizens will constitute a majority of the age-eligible population. The district lines under the consent decree will mirror district lines for the Georgetown County Council. Under the terms of the consent decree, all seven districts will elect a board member in November 2008. The consent decree also requires that the chairperson of the board be elected by the board itself, instead of the current county-wide method for electing the board chairperson.

In April 2008, the Justice Department settled a Section 2 lawsuit against the Osceola County, Florida, School Board. The complaint alleged that the existing districts will result in Hispanic citizens having less opportunity than other citizens to participate in the electoral process and to elect candidates of their choice to office. Although county voters approved, in January 2008, a referendum changing from at-large elections to single-member district elections, state law prevented implementation of this plan in an even numbered year. Without this consent decree, the 2008 elections would have proceeded under a district plan that denied Hispanic citizens the equal voting opportunities guaranteed by the Voting Rights Act. This settlement follows a 2006 federal court ruling against Osceola County that at-large elections for electing its Board of County Commissioners violated Section 2 of the Voting Rights Act. The federal

district court in Orlando held that the at-large election system diluted Hispanic voting strength, and ordered elections to be held, beginning with a special election in 2007, under a remedial plan of five single-member districts.

On July 2, 2008, I spoke to over 200 federal prosecutors, civil rights attorneys and FBI agents who took part in a two-day Ballot Access and Voter Integrity conference. They received a copy of a memorandum that I issued in March 2008 to remind all employees of policies regarding election-year sensitivities. I repeated the message that politics must play no role in the decisions of investigators or prosecutors as to any investigations or criminal charges; that law enforcement officers and prosecutors may never select the timing of investigative steps or criminal charges for the purpose of affecting any election; and that we must not do anything for the purpose of giving an advantage or disadvantage to any candidate or political party. Those principles have even more weight in decisions concerning ballot access and voter integrity, and I am confident that all Department employees will follow them.

The Department's successes under the Ballot Access and Voter Integrity Initiative have been significant. For example, in late January 2008, the Civil Rights Division reached an agreement with Tennessee officials to ensure that military service members and other U.S. citizens living abroad would have the opportunity to participate in the State's federal primary election in February. The agreement established emergency procedures for Tennessee's presidential primary election to allow eligible military and overseas citizens enough time to cast and return their ballots and to have their votes counted. In February, the Department settled a lawsuit it had filed under the Help

America Vote Act against Bolivar County, Mississippi. The consent decree established procedures for county officials to follow during federal elections regarding provisional ballots. In May 2008, the Department reached an agreement with the State of Arizona to bring the State's Department of Economic Security into compliance with federal laws, including the National Voter Registration Act, requiring public assistance agencies to offer their clients the opportunity to register to vote.

For the 2008 elections, the Civil Rights Division will implement a comprehensive Election Day program to further the goals of the Initiative. The program is designed to help ensure ballot access, coordinating the deployment of hundreds of federal government employees in counties, cities, and towns across the country to ensure access to the polls as required by our nation's civil rights laws.

The Civil Rights Division continues its enforcement in other areas as well. For example, in April 2008, the Department obtained a guilty plea for a federal hate crime in *U.S. v. Munsen*. Jeremiah Munsen drove past a group of African Americans who had participated in a civil rights rally in Jena, Louisiana while displaying two hangman's nooses from the back of his pickup truck. The Department also recently obtained a conviction in *U.S. v. Milbourn* against a defendant for his role in burning an eight-foot-tall cross in the yard of the victim's home because the victim has three bi-racial children. In June 2008, the

defendant was sentenced to 121 months in prison. Since Fiscal Year 2001, the Department of Justice has charged 65 defendants in 44 cross-burning cases.

The Department's enforcement efforts in human trafficking remain strong. In the last seven years, the Department of Justice has increased, by nearly seven-fold, the number of human trafficking cases filed in court as compared to the previous seven fiscal years. In fiscal year 2007, the Department obtained a record number of convictions in human trafficking prosecutions.

The Civil Rights Division's Housing and Civil Enforcement Section is charged with ensuring nondiscriminatory access to housing, credit, and public accommodations. The Section has continued to pursue Operation Home Sweet Home, an initiative that was launched two years ago to combat hidden forms of discrimination in housing. As part of the initiative, we committed additional resources to our fair testing program and enhanced our targeting. In fiscal year 2007, we conducted more than 500 paired tests, exceeding by more than 20 percent the highest number of tests conducted in any previous year since the program's inception. The testing program also is producing new cases. We are currently litigating a case alleging a pattern or practice of discrimination against African Americans in Roseville, Michigan. Another case on behalf of African Americans based on testing evidence is in pre-suit negotiations. In addition, during fiscal year 2007, Operation Home Sweet Home resulted in the first pattern or practice discrimination case ever brought by the Civil Rights Division on behalf of Asian Americans based on evidence from our testing program. That case, *United States v. Pine Properties (D. Mass.)*, was settled in January 2008, with the defendants agreeing to pay up to \$158,000 in monetary relief. Operation Home Sweet Home also has resulted in pattern or practice discrimination cases on behalf of families with children and guide-dog users.

In addition, in May 2008, the court in *United States v. Henry (E.D. Va.)*, entered a consent order requiring the landlord of a subsidized housing complex to pay up to \$361,000 to settle the Division's lawsuit alleging that the defendant imposed more restrictive rules and regulations on African-American tenants than on other tenants; verbally harassed African-American tenants with racial slurs and epithets; and evicted tenants by enforcing a limit of two children per family. We currently are litigating several other pattern or practice cases involving race and national origin discrimination.

The Americans with Disabilities Act (ADA) is a landmark law that protects the civil rights of the more than 50 million persons with disabilities and was intended to provide individuals' "equality of opportunity, full participation, independent living, and economic self-sufficiency." The Civil Rights Division's Disability Rights Section (DRS) protects the rights of persons with disabilities under Titles I, II, and III of the ADA. Two recent settlement agreements obtained by the Section illustrate some of its wide-ranging ADA enforcement efforts.

On March 10, 2008, a federal court in Michigan entered a consent decree resolving a lawsuit that the Justice Department and the Michigan Paralyzed Veterans of America filed against the University of Michigan. The lawsuit was brought to challenge the lack of accessible seating in the University's football stadium. Under the settlement, the University will add a minimum of 248 permanent wheelchair seats and 248 companion seats to the stadium during the next two years. The majority of these seats will be along the sidelines. Currently, the stadium has 81 pairs of wheelchair and companion seats, all located in the end zones. By the 2010 football season, the University will have at least 329 pairs of wheelchair and companion seats dispersed throughout the stadium.

Additionally, the Justice Department and the International Spy Museum recently reached a settlement agreement under the ADA. As a result of this precedent-setting agreement, which was announced on June 3, 2008, the museum agreed to work to bring the content of its exhibitions, public programs, and other offerings into full compliance with ADA requirements so that its exhibits are accessible and effectively communicated to individuals with disabilities, including individuals with hearing and vision impairments. By focusing on visitors who are blind or have low vision and who are deaf or hard of hearing, the agreement establishes a new level of access for cultural and informal educational settings. Of the 50 million Americans with disabilities, 16 million have sensory disabilities. The agreement seeks to ensure these individuals will have access to the museum's exhibitions, audiovisual presentations, and programs, as required by law.

In addition to the Division's robust ADA enforcement efforts, the Department also recently announced that it is soliciting comment on proposed amendments to its regulations implementing Titles II and III of the ADA. The proposed regulations will, for the first time, establish specific requirements for the design of accessible public facilities such as courtrooms and an array of recreation facilities including playgrounds, swimming pools, amusement parks, and golf courses, making it easier for individuals with disabilities to travel, enjoy sports and leisure activities, play, and otherwise participate in society.

The proposed amendments are intended to implement standards consistent with revised guidelines published by the Architectural and Transportation Barriers Compliance Board (Access Board) and to adopt changes necessary to address issues that have arisen since the publication of the original regulations in 1991. The amendments, which represent more than 10 years of collaborative efforts among disability groups, the design and construction industry, state and local government entities, and building code organizations, also are intended to provide greater consistency between the ADA Standards and other federal and state accessibility requirements.

The Civil Rights Division also remains diligent in combating employment discrimination, one of the Division's most long-standing obligations. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Most allegations of employment discrimination are made against private employers. Those claims are investigated and potentially litigated by the Equal Employment Opportunity Commission (EEOC). However, the Civil

Rights Division's Employment Litigation Section is responsible for one vital aspect of Title VII enforcement: discrimination by public employers. The Department continues to litigate *United States v. City of New York*, which alleges that since 1999, the City of New York has engaged in a pattern or practice of discrimination against black and Hispanic applicants for the position of entry-level firefighter in the Fire Department of the City of New York in violation of Title VII.

In June 2008, the Justice Department also announced the filing of a lawsuit against the city of Jackson, Alabama, alleging that the city violated Title VII when it discharged Virginia Savage, an African American, from her employment as a circulation clerk at the city's municipal library in retaliation for her complaints of racial discrimination and harassment by her supervisors.

Public Corruption

The investigation and prosecution of public corruption is among the highest obligations of law enforcement, and I consider it to be one of the top priorities of the Department of Justice. The Department's career prosecutors and criminal investigators are engaged in a renewed effort to pursue corruption at all levels and in all branches of government. The Department's achievements during the past year in this area show a steady commitment to fighting public corruption wherever it is found and on a non-partisan basis.

The Department's recent public corruption investigations have resulted in convictions of federal officials in all branches of government, as well as numerous state and local officials. At the federal level, in February, defense contractor Brent Wilkes was sentenced to 12 years in prison for his involvement in what the *Washington Post* called "the most brazen bribery conspiracy in modern congressional history." Wilkes funneled cash, mortgage payments, cars, meals, luxury travel, and prostitutes to former Congressman Randall "Duke" Cunningham in return for the Congressman's assistance in steering contracts to Wilkes's company.

In March 2008, the Department obtained the seventh criminal conviction arising out of an ongoing investigation into public corruption among state officials in Alaska. The convictions have included three former elected members of the state house of representatives (including a former speaker of the house), a chief of staff to a former governor, and three high-ranking executives with a major Alaska oil-services company. The convicted individuals made or received thousands of dollars in corrupt payments as well as offers of employment in return for official actions--including votes in the legislature--that would benefit the company.

The Department, through its National Procurement Fraud Task Force, continues to devote significant attention to procurement and other corruption within the Iraq and Afghanistan war theaters and related support efforts. For example, in April, an indictment by a federal grand jury in San Francisco was unsealed against a Canadian night vision goggles manufacturing firm and two of its executives for their participation in a scheme to defraud the U.S. military in the supply of equipment for the Iraqi army. In

June 2008, a U.S. Army officer and his wife pleaded guilty for their participation in a conspiracy, bribery and money laundering scheme involving contracts awarded in support of the Iraq war. Additionally, a retired U.S. Army colonel pleaded guilty in June for her role in a scheme designed to secure a U.S. Department of Defense contract at Camp Victory, Iraq, in 2004 and 2005. Also in June 2008, a defense contractor, Raman International, pleaded guilty for its role in a bribery scheme designed to influence the award of U.S. Department of Defense contracts at Camp Victory, Iraq.

Immigration and the Southwest Border

Enforcing the Nation's immigration laws remains an important priority for the Department. The ability to control who--and what--comes into and out of a country is a basic attribute of a sovereign government, and being able to do that is vital to our Nation's security.

In April, Deputy Attorney General Filip visited the borders of Arizona and Texas to meet with federal law enforcement officials who are on the front lines protecting our border. At that time, he announced the distribution of \$7 million appropriated by Congress for the five border districts, to support security and immigration enforcement efforts. This money will fund 64 new Assistant U.S. Attorneys and 35 new contract support positions for the districts.

In an effort to make the most of those dollars, we have asked U.S. Attorneys who serve in the border districts to work with their law enforcement partners in the Departments of Justice and Homeland Security, to strategically attack criminal activity along the border.

These are targeted resources, requested by each district, and they are emblematic of the Department's comprehensive but flexible strategy. There is no one-size-fits-all solution to the problems on the border--what works in one district or sector may not work in another. Law enforcement professionals in the border districts are the experts who know their areas, and know what will work best there.

For the District of Arizona, that means an allocation of 21 new Assistant U.S. Attorneys, and about a dozen additional support positions. That is a significant increase from the current 133 Assistant U.S. Attorneys in the district. For the Southern District of Texas, that means an allocation of 13 new Assistant U.S. Attorneys, and seven additional support positions. That is a substantial increase from the current 150 Assistant U.S. Attorneys in the district. The Western District of Texas will also receive 16 new Assistant U.S. Attorney positions for work there. These new prosecutors will handle cases like drug and gun smuggling, illegal entry and reentry, worksite enforcement, and false documents.

In addition to these funds, which are available immediately and for the next two years, the Department has requested in its fiscal year 2009 budget another \$100 million to help fight criminal activity along the border as part of our Southwest Border Enforcement Initiative.

The Department of Justice and these U.S. Attorney's Offices have always pursued large-scale drug smugglers on the border, along with smaller cases involving repeat

offenders and other serious violators. We remain committed to that effort. This new money, and the positions it will fund, means that we will be able to prosecute even more cases than before, targeting smugglers both large and small.

* * *

Because of the abbreviated congressional calendar this year, today's oversight hearing is likely the last time I will appear before the Senate Judiciary Committee. Throughout my tenure as Attorney General, I have appreciated the courtesies, both professional and personal, that I have received from various members of this Committee and from the Senate as a whole. Although we have not always agreed on the issues, and in some instances we have disagreed vigorously, I want each of you to know that I have the utmost respect for the role you play in our constitutional system of government. Thank you for the opportunity to appear before you to talk about the important work of the Department, and I appreciate the opportunity to answer any questions you may have.